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PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**



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

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This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

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| SEC—Forms, Securities Exchange Act of 1934; broker-dealer reports and registration forms | 30483; 8–23–74 |

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

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# rules and regulations



## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

#### Subpart A—Regulations

QUOTATIONS COMMITTEE MEETINGS

*Statement of Considerations.* The revision of § 27.97(b) of the Regulations for Cotton Classification Under Cotton Futures Legislation (7 CFR Part 27, Subpart A) hereinafter set forth requires that quotations committees in bona fide spot markets assemble in a scheduled meeting not less than twice each week instead of once each week as was formerly required. This change from a minimum of one meeting a week to a minimum of two meetings a week was discussed and agreed upon at a meeting the Department held with representatives of cotton exchanges in bona fide spot markets May 15, 1974. The change was made to strengthen and improve the establishment and maintenance of daily spot quotations.

Accordingly, pursuant to authority contained in the cotton futures provisions in sections 4862 and 4863 of the Internal Revenue Code of 1954 (68A Stat. 581, 582; 26 U.S.C. 4862, 4863) paragraph (b) of § 27.97 of the regulations governing cotton classification (7 CFR 27.97 (b)) under such provisions is hereby revised to read as follows:

**§ 27.97 Quotations committees; establishment; duties.**

* * * * *

(b) The committee shall assemble in a scheduled meeting not less than twice each week. The committee shall also meet upon request of a representative of the Cotton Division.

* * * * *

(Secs. 4862 and 4863, 68A Stat. 581, 582; 26 U.S.C. 4862, 4863)

This revision will impose no hardship or advance preparation on the part of the industry since quotations committees in bona fide spot markets are already meeting twice each week and it is hereby found that pursuant to the administrative provisions of 5 U.S.C. 553 notice and other public rule making procedures are impracticable and good cause is found for making the revision effective less than 30 days after publication in the FEDERAL REGISTER.

*Effective Date.* This revision becomes effective on September 23, 1974.

Dated: September 17, 1974.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.74-21971 Filed 9-20-74;8:45 am]

## Title 9—Animals and Animal Products

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

#### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

### PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

#### Commuted Traveltime Allowances

The purpose of this amendment is to establish commuted travel-time periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1974 ed.), as amended January 4, 1974 (39 FR 999) January 18, 1974 (39 FR 2265), March 18, 1974 (39 FR 10115), April 4, 1974 (39 FR 12252), June 5, 1974 (39 FR 19940), June 25, 1974 (39 FR 22942), August 14, 1974 (39 FR 29172), and August 30, 1974 (39 FR 31622), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, is hereby amended by adding to or deleting from the respective lists therein as follows:

OUTSIDE METROPOLITAN AREA

FOUR HOURS

Add: Calexico, California (served from Yuma, Arizona).

(64 Stat. 561 (7 U.S.C. 2260))

*Effective date.* The foregoing amendment shall become effective September 23, 1974.

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of September 1974.

PIERRE A. CHALOUX,
*Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.*

[FR Doc.74-22050 Filed 9-20-74;8:45 am]

## Title 12—Banks and Banking

### CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. D]

### PART 204—RESERVES OF MEMBER BANKS

#### Due Bills as Deposits

By notice published in the FEDERAL REGISTER of July 1, 1974, (39 FR 24243) the Board of Governors proposed to amend Regulation D to classify as "deposits," and thereby subject to reserve requirements, funds received by member banks from the issuance of due bills in connection with sales of securities where the securities sold are not delivered to or for the account of the purchaser within three business days from the time of the purchase and where, for any period thereafter, such due bills are not fully collateralized by securities similar to those that the due bill represents. The July 1, 1974 proposal reflected the Board's consideration of comments received on its proposal of December 26, 1973 (38 FR 35236) to amend both Regulations D and Q to classify uncollateralized due bills as deposits. After review and consideration of all comments received, pursuant to its authority under section 19 of the Federal Reserve Act to define the terms used in that section and for the reasons stated in the Board's previous notices on this subject, the Board has approved an amendment to Regulation D in substantially the same form as published for comment on July 1, 1974.

Since 1966 due bills that are issued by a member bank principally as a means of obtaining funds to be used in its banking business have been defined as deposits subject to reserve requirements and interest rate limitations under both Regulations D and Q. The Board regards the good faith effort to make timely delivery of the underlying security and

full disclosure to customers that a due bill may be issued in lieu of the security sought to be purchased as basic elements of bona fide due bill transactions. This amendment does not alter the regulatory stance adopted in 1966, but adds a provision under Regulation D to define as deposits funds received from the issuance of due bills in connection with sale of securities where the securities sold are not delivered to or for an account of the purchaser within three business days from the time of purchase and where, for any period thereafter, such due bills are not fully collateralized by securities similar to those that the due bill represents.

Under the amendment, due bill transactions entered into on or after the effective date of this amendment, which remain uncollateralized for more than three business days are treated as demand deposits under Regulation D. Deposits treatment applies to such due bill transactions whether funds are received from another bank or other customers and regardless of the method by which such transactions are evidenced or recorded—whether by issuance of an instrument, oral undertaking or understanding, record notation or other manner.

At the same time, the Board approved an interpretation (12 CFR 204.110) intended to describe the types of collateralization and other conditions required to remove due bill transactions from the reserve requirements of Regulation D. The interpretation approved by the Board indicates that due bills in Treasury issues may be secured by appropriate amounts of any other marketable Treasury issues regardless of maturities and that due bills in Federal agency securities can be secured by either Treasury or agency issues, again regardless of maturities. The Board stated also that the collateralization requirement may be satisfied by the pooling of appropriate collateral as well as by piece-by-piece collateralization using specific Treasury and Federal agencies securities.

Effective October 14, 1974, § 204.1(f)(5) of Regulation D (12 CFR Part 204) is amended by adding a new sentence at the end thereof to read as follows:

**§ 204.1 Definitions.**

* * * * *

(f) *Deposits as including certain promissory notes and other obligations.* * * *

(5) * * * In addition to and notwithstanding the foregonig, the term "deposit" includes any liability or undertaking on the part of a member bank to sell or deliver securities to, or purchase securities for the account of, any customer (including other banks), involving mer (including other banks), involving the receipt of funds by the member bank or a debit to an account of such customer before the securities are delivered, unless such securities are delivered to or for the account of the purchaser within three business days from the date of purchase or, thereafter, such liability or undertaking is fully secured by collateral consisting of one or more securities "similar to" and with an aggregate market value at least equal to that of the securities which are the subject of the member bank's liability or undertaking.

By order of the Board of Governors, September 13, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-21931 Filed 9-20-74;8:45 am]

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[Reg. D]

## PART 204—RESERVES OF MEMBER BANKS

### Due Bills as Deposits; Interpretation

**§ 204.110 Collateralization of due bills outstanding for more than three days.**

On September 13, 1974, the Board of Governors approved an amendment to § 204.1(f) of Regulation D (effective October 14, 1974) to define as deposits for reserve requirement purposes due bills issued on or after the effective date by member banks that are uncollateralized which remain outstanding for more than three business days. Since 1966, due bills issued or undertaken by a member bank principally as a means of obtaining funds to be used in its banking business, have been defined as deposits under both Regulation D (204.1(f)) and Regulation Q (217.1(f)).

This amendment retains the existing deposit treatment under both Regulations D and Q for due bills issued principally as a means of obtaining funds and provides an additional provision under Regulation D to define as deposits due bills that remain uncollateralized after three business days. Such due bills would be subject to demand deposit reserve requirements. These amendments define as deposits for reserve purposes due bills outstanding for more than three business days and which are not fully secured by securities "similar to" those that are the subject of the underlying due bill transaction. For purposes of the collateralization requirement, due bills in Treasury securities may be secured by appropriate amounts of any other marketable Treasury issues (including Federal Financing Bank issues) regardless of maturity. Due bills in securities of agencies of the Federal government may be secured by either Treasury or agency issues, also regardless of maturity.

The securities used to collateralize due bill transactions may be individually identified and issued against a particular due bill transaction. In addition, securities qualified to serve as collateral may be placed in a pool of similarly qualified securities and all or part of such pool may be used to collateralize a member bank's due bill transactions.

In addition to the foregoing requirements, the good faith effort to make (1) timely delivery of the underlying security represented by the due bill transaction and (2) full disclosure to customers that a due bill may be issued in lieu of the security sought to be purchased, are regarded as basic elements of bona fide due bill transactions. Where it is the practice of a member bank not to attempt to obtain and deliver the underlying security within a reasonable time from the issuance of the due bill or where customers are not informed of a bank's inability to obtain the security sought to be purchased, such practices indicate that a member bank is utilizing due bill transactions as a means of obtaining funds principally for its banking business and therefore, regardless of outstanding collateralization, such transactions are regarded as a "deposit" under both § 204.1(f) of Regulation D and § 217.1(f) of Regulation Q. For example, where a bank issues due bills with short maturities and where due bills are regularly issued under agreement or understanding to repurchase and reissue for an additional period, such transactions may be regarded as "deposits" under both Regulation D and Regulation Q.

References to due bills issued by member banks contained in paragraph (e) of the Board's interpretation issued in 1970 (§ 217.137, 1970 BULLETIN 38) regarding Federal funds transactions are superseded by this interpretation.

By order of the Board of Governors, September 13, 1974.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.74-21932 Filed 9-20-74;8:45 am]

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[Reg. H]

## PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

### Loans by State Member Banks in Flood-Prone Areas

Pursuant to an amendment to Chapter III of Title XIII of the Housing and Urban Development Act of 1968 (P.L. 93-383) on August 22, 1974, the Board of Governors of the Federal Reserve System is adopting the following amendment to Part 208 by adding § 208.8(e)(4) to § 208.8(e). The amendment requires any State member bank, on or after September 22, 1974, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards pursuant to Title XIII of the Housing and Urban Development Act or the Flood Disaster Protection Act of 1973 (P.L. 93-234), to provide the purchaser or lessee of affected property with written notice of such designation.

1. Effective September 22, 1974, § 208.8(e) shall be amended by adding a new subparagraph (4) as follows:

**§ 208.8 Banking practices.**

* * * * *

(e) Loans by State member banks in identified flood hazard areas. * * *

(4) Notice to borrower of special flood hazard. After September 21, 1974, each

State member bank shall as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, mail or deliver as soon as feasible but not less than 10 days in advance of closing of the transaction (or not later than the bank's commitment, if any, if the period between commitment and closing is less than 10 days) a written notice to the borrower that the property securing the loan is in an area so identified. In lieu of the notification required in this section, a bank may obtain satisfactory written assurances from a seller or lessor that such seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is in an area so identified. A bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgment that the borrower realizes that the property, securing the loan or upon which a mobile home is or will be located, is in a special flood hazard area.

2. The provisions of section 553 of Title V, United States Code, relating to notice, public participation and deferred effective date were not followed in connection with this amendment because Public Law 93–383 directs the Board to adopt implementing regulations no later than September 22, 1974, and this amendment to Regulation H merely implements statutory provisions without significant exercise of administrative discretion or interpretation.

By order of the Board of Governors, effective September 22, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21899 Filed 9-20-74;8:45 am]

## CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

### SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

### PART 339—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

### Notice to Borrower of Special Flood Hazard

1. On August 22, 1974, Chapter III of Title XIII of the Housing and Urban Development Act of 1968 was amended by section 816(a) of the Housing and Community Development Act of 1974 (P.L. 93–383) by adding thereto a new section 1364. That section requires that by September 22, 1974 (thirty days after the enactment of P.L. 93–383), the federal instrumentalities responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation require such institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards pursuant to Title XIII of the Housing and Urban Development Act of 1968 or The Flood Disaster Protection Act of 1973 (P.L. 93–234), to provide the purchaser or lessee of affected property with written notice of such designation in the manner specified in section 1364 of Chapter III of the Housing and Urban Development Act of 1968 as amended.

2. Part 339 of Chapter III, Title 12 of the Code of Federal Regulations is therefore amended by adding a new § 339.5 thereto which reads as follows:

**§ 339.5 Notice to borrower of special flood hazard.**

After September 21, 1974, each insured State nonmember bank shall, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, mail or deliver as soon as feasible but not less than 10 days in advance of closing of the transaction (or not later than the bank's commitment, if any, if the period between commitment and closing is less than 10 days) a written notice to the borrower that the property securing the loan is in an area so identified. In lieu of the notification required in this section, a bank may obtain satisfactory written assurances from the seller or lessor that such seller or lessor has notified the borrower, prior to the execution of any agreement for sale or lease, that the property securing the loan is in an area so identified. A bank shall require the borrower, prior to closing, to provide the bank with a written acknowledgment that the borrower realizes that the property, securing the loan or upon which a mobile home is or will be located, is in an area so identified.

(Sec. 816(a), 88 Stat. 739)

3. The requirements of sections 553(b) and 553(d) of Title 5 of the United States Code and §§ 302.1, 302.2 and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation, with respect to notice, public participation, and deferred effective date, were not followed in connection with the promulgation of this regulation because the Board of Directors found that the public interest and requirements of existing law compelled it to make the action effective no later than September 22, 1974.

4. *Effective date.* This regulation is effective September 22, 1974.

By order of the Board of Directors, September 18, 1974.

FEDERAL DEPOSIT INSURANCE CORPORATION,

[SEAL] ALAN R. MILLER,
*Executive Secretary.*

[FR Doc.74-22151 Filed 9-19-74;3:29 pm]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2523]

### PART 13—PROHIBITED TRADE PRACTICES

### GAC Corporation, etc.

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§ 13.675 *Delaying or withholding corrections, adjustments or action owed;* § 13.677 *Delaying or failing to deliver goods or provide services or facilities.* Subpart—Enforcing dealings or payments wrongfully: § 13.1045 *Enforcing dealings or payments wrongfully.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1430 *Government endorsement, sanction or sponsorship;* § 13.1553 *Services;* § 13.1570 *Unique status or advantages*—Goods: § 13.1610 *Demand for or business opportunities;* § 13.1625 *Free goods or services;* § 13.1632 *Government endorsement or recommendation;* § 13.1685 *Nature;* § 13.1697 *Opportunities in product or service;* § 13.1710 *Qualities or properties;* § 13.1725 *Refunds;* § 13.1740 *Scientific or other relevant facts;* § 13.1760 *Terms and conditions;* § 13.1760–50 Sales contract; § 13.1765 *Undertakings, in general;* § 13.775 *Value*—Prices: § 13.1778 *Additional costs unmentioned;* § 13.1790 *Coupons, credit vouchers, etc., of specified value;* § 13.1823 *Terms and conditions*—Services: § 13.1835 *Costs;* § 13.1843 *Terms and conditions.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1857 *Instruments' sale to finance companies;* § 13.1863 *Limitations of*

*product;* § 13.1876 *Notice of third party sale of contract;* § 13.1889 *Risk of loss;* § 13.1890 *Safety;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1895 *Scientific or other relevant facts;* § 13.1905 *Terms and conditions;* § 13.1905–50 Sales contract. Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 56. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, GAC Corporation, et al., Miami, Fla., Docket C–2523, July 23, 1974]

*In the matter of GAC Corporation, GAC Properties, Inc., and GAC Properties, Inc., of Arizona, Corporations and Their Subsidiaries*

Consent order requiring a Miami, Fla., land developer and two of its subsidiaries, among other things to cease using false, misleading, deceptive and unfair practices in connection with the sale of land and to cease misrepresenting the qualities, characteristics or state of present or planned development of their land; misrepresenting the nature and purpose of events or activities used to solicit land sales; misrepresenting endorsements or connections with agencies of the U.S. Government; and misrepresenting the legal significance of signing a contract. The order further provides comprehensive consumer protection to future purchasers, including mandatory affirmative disclosures and a cooling-off period; benefits to past purchasers which could cost the company more than $17 million; and relief from the contractual provision under which defaulting purchasers forfeit all payments previously made to GAC under the contract (liquidated damages). The order requires GAC to offer to many purchasers of lots in two of its subdivisions, an option to exchange them for property in other GAC subdivisions, an option to exchange them for property in other GAC subdivisions which have already been developed; and undertake a redevelopment program for Golden Gate Estates subdivision in particular. The order further requires GAC to clearly disclose in contracts the uncertainty of the future value of land, the difficulty of reselling it and other material factors, and suggest the purchaser consult a qualified professional; and allow the purchaser a ten calendar day cooling-off period within which to cancel the contract with full refund rights.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

For purposes of this order the following definitions shall be applicable:

"Land" shall mean real property subdivided into parcels without any house or building constructed thereon, but shall not include anything defined below as "other real property."

"Other real property" shall mean a house or building constructed for residential purposes and the land upon which it is situated, including land upon which, pursuant to a purchase agreement or contract, a house or building is to be constructed within 12 months and with respect to which no consideration will pass to respondents until closing other than moneys held in escrow or a minimal earnest money deposit.

"Consumer" shall mean a natural person to whom respondents offer to sell or sell land or other real property: *Provided, however,* That the term "consumer" shall not include a natural person who purchases land in a single transaction for a sum in excess of $50,000.

I.

As used in this section of the order, a requirement to cease and desist from representing or misrepresenting shall, unless otherwise indicated, include representing or misrepresenting directly or by implication, and by any manner or means.

*It is ordered:* That respondents GAC Corporation, GAC Properties, Inc. and GAC Properties, Inc. of Arizona, corporations, and their officers, and their subsidiaries and the said subsidiaries' officers, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, or sale of land and other real property to consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwise cease and desist from:

1. (a) Failing to disclose, clearly and conspicuously, in any written or oral invitation or other initial communication to consumers concerning any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or low cost gifts or vacations, and sightseeing tours, or for any other goods or services, which invitation or communication is in any manner a part of a plan or procedure to sell land, the following statement: "The purpose of [the event or activity] is to attempt to sell you land presently undeveloped in [name of State in which land is located.]"

(b) (i) If the invitation or communication is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communication; (ii) if the invitation or communication is oral and delivered in person, such disclosure shall be both oral and in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communication; and (iii) if the invitation or communication is made by telephone, such disclosure shall be made orally and clearly and conspicuously in conjunction with the telephone invitation or communication and in writing by mail to be received by the prospective purchaser at least 24 hours prior to the event or activity: *Provided, however,* With respect to subpart (iii) above, that if the event or activity is a sales presentation to be conducted in the home of the consumer, such written disclosure may be made at any time prior to the sales presentation, but in no event shall such disclosure be made later than the introductory remarks of the salesman; *and further provided,* With respect to subpart (iii) above that if the invitation or communication is received at a place other than the consumer's residence or place of employment, such written disclosure may be made at any time prior to the consumer's attendance at the sales presentation.

2. Misrepresenting the true nature and purpose of any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or reduced gifts or vacations, and sightseeing tours.

3. Failing to furnish the purchaser with a fully completed copy of the contract at the time of its signing by the purchaser, which is in the same language as that principally used in the oral sales presentation, if any, and which shows the date of the transaction and contains the name and address of the respondent: *Provided, however,* That a foreign language copy of the contract need not be furnished if the purchaser is literate in the English language; and further provided, that the contract need not at this time contain the signature of respondents.

4. Failing to set forth as the title of any contract for the purchase of land, in boldface type, the following language: "Contract for Deed for the Purchase of Land."

5. (a) Failing to print clearly and conspicuously in 12-point boldface type on the top half of the first page of all contracts for the sale of land, in addition to that language required by paragraph 4 above, the following:

This is a contract by which you agree to purchase land. You have 10 days in which to determine whether to continue this contract or cancel it with full refund. See the attached notice of cancellation form for an explanation of this right. Use this time to examine with care the property report (sometimes called a public offering statement) which must be given to you at or before the time you sign this contract.

The future value of this land, like all undeveloped real estate, is uncertain. It is unlikely that a purchaser will be able to resell his land without substantial community development and population growth, which may not occur for a number of years after you have completed your contract payments, if at all. It is suggested that you have both this contract and the property report reviewed by a lawyer, realtor or other qualified professional.

(b) In addition, there shall appear, in the form and place described in subparagraph (a), such of the following statements as are applicable:

(i) For contracts for the sale of lots to which respondents are not obligated to make a central sewer system available at the time title passes to the purchaser, add the following, including the second and third sentence only where applicable: "A central sewer system will not be available when you have completed your contract payments. Installation of

[1] Copies of the complaint, and decision and order filed with the original document.

septic tank would be at your expense. However, the use of a septic tank on your lot is contingent on passing a soil test and approval by governmental authorities."

(ii) For contracts for the sale of lots to which respondents are not obligated to make a central water system available at the time title passes to the purchaser, add the following, including the second sentence only where applicable: "A central water system will not be available when you have completed your contract payments. Installation of a well would be at your expense."

(iii) For contracts for the sale of lots to or on which respondents are not obligated to provide any improvements, add the following in lieu of any of the above: "This completely undeveloped land is being sold 'as is.' No improvements are planned for this subdivision. Your lot is probably inaccessible by conventional means of transportation, and has no use in the present or in the foreseeable future."

6. Failing to include in any contract for the sale of land a provision whereby the seller agrees not to create during the contract term, without the express written permission of the purchaser, by sale, lease or any other means, any restriction, easement or reservation of any kind which can substantially limit the purchaser's use or enjoyment of his lot after the maturity date of said contract.

7. Including in any contract for the sale of land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language stating expressly or by implication:

(a) That no express or implied representations have been made in connection with the sale of respondents' land, or that any particular representation has not been made in connection therewith; and

(b) That the purchaser has had an opportunity to examine or understand any property report, offering statement or similar document required by state or federal law to be made available to him; *provided, however,* That such language may be included when authorized by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701–20 (1970).

8. Changing a contract in any respect after signature by the purchaser unless such change is made by mutual agreement in writing, and unless it is clearly and conspicuously disclosed to the purchaser that he can refuse to accept such change and in lieu thereof receive a full refund of all moneys paid under the contract.

9. Making any statement or representation concerning the rights or obligations of respondents or the purchaser which differs in any material respect from the rights or obligations of the parties as stated in the contract.

10. (a) Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, improvement (roads or drainage) or utility (central sewage and water systems, electricity, or telephone service), unless respondents' contracts at the time of the representation contain a legal obligation on the part of respondents to provide or make available (i) said recreational facilities and improvements at a date certain, not later than 12 years from the date of purchase, set out clearly and conspicuously in the contract; (ii) said utilities within 90 days after respondents' receipt of written notification of the issuance of a building permit, *provided* That, if so represented, the time for installation of central water and sewer systems may be stated in the contract in terms of population density rather than as a specific date or time; and (iii) without, in the case of improvements or utilities, any cost to the purchaser in excess of the purchase price stated in the contract, except hook-up or installation charges for utilities as estimated in the contract on a current cost basis, subject to future local adjustments in accordance with regulations of and tariffs filed with appropriate public authorities.

(b) Failing to express the aforesaid contractual obligations set out in subparagraph (a) above in the contract with the purchaser in the following manner:

(i) An adequate description of each improvement, utility or recreational facility to be provided;

(ii) A provision that in the event any of the improvements, utilities or recreational facilities specified in the contract are not available to the lot which is the subject of the contract or are not completed within six months of the time provided in the contract, respondents will immediately, upon the expiration of said six-month period, provide the purchaser by certified mail, return receipt requested, with notice of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities and of the purchaser's right to exercise within 30 days of receipt of said notice his option to receive an exchange or to cancel and receive a full refund as set out in subparagraph (iii) below;

(iii) An option to the purchaser stated substantially as follows: In the event that any of the improvements, utilities or recreational facilities specified by the seller in this contract are not available to the lot which is the subject of this contract or are not completed within six months of the time provided in this contract, the buyer may elect, at his option, to (1) receive an exchange acceptable to the buyer of the contracted-for homesite property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision, or (2) cancel this contract and receive from the seller a full refund of all moneys paid under the contract. To exercise this option, the buyer must give notice to the seller by registered or certified mail within 30 days after receipt of notice from the seller of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities. Where the buyer has received a deed or other evidence of interest in the contracted-for property other than this contract, the buyer must, as a condition of obtaining an exchange or a refund hereunder, recovery to the seller such evidence of interest in the title to such property by General Warranty Deed in recordable form. In the event only the contract has been recorded in the Public Records, the buyers must quit claim in recordable form his interest to the seller to remove any clouds on the title to said property.

(c) Failing to make the exchange or refund requested by a purchaser under the terms of this paragraph of the order within 60 days of receipt of notification from the purchaser.

(d) Soliciting or obtaining the purchaser's assent to or otherwise imposing any condition, waiver or limitation upon the right of a purchaser to an exchange or a refund as set forth in this paragraph of the order; *provided, however,* That respondents may require purchasers to request an exchange or a refund within a stated time period of not less than 30 days after receipt by the purchaser of the notice required by subparagraph (b) (ii) above.

11. (a) Failing to furnish each purchaser of land, at the time he signs the contract, with a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall contain in boldface type of a minimum size of 10 points the following statement:

NOTICE OF CANCELLATION

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(Date of transaction)

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(Print Purchasers' names)

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth (10th) day after the above date.

If you cancel, any payments made by you under the contract will be refunded within ten (10) business days following receipt by the seller of your cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram, to (name of respondent), at (address of respondent's place of business) not later than midnight of _____.

(date)

I (we) hereby cancel this transaction. (each purchaser must sign this notice).

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(Date)

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(Purchasers' signatures)

(b) Failing, before furnishing copies of the "Notice of Cancellation" to the purchaser, to complete both copies by entering the name of the respondent, the address of the respondent's place of business, the date of the transaction, and the date, not earlier than the tenth day following the date of the transaction, by which the purchaser may give notice of cancellation.

12. Failing, in any instance where a timely notice of cancellation as required by paragraph 11 above is received, and said notice is not properly signed, and respondents do not intend to honor the notice, immediately to notify the purchaser by certified mail, return receipt

requested, enclosing the notice, informing the purchaser of his error, and stating clearly and conspicuously that a notice signed by each purchaser must be mailed by midnight of the third day following the purchaser's receipt of said mailing if such purchasers are to obtain a refund.

13. Failing or refusing to honor any signed and timely notice of cancellation by a purchaser, including any such notice received in accordance with paragraph 12 above, and within ten business days after the receipt of such notice, to (i) refund all payments collected under the contract, and/or (ii) cancel and return any negotiable instrument executed by the purchaser and retained by respondents in connection with the contract.

14. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness of a purchaser of land to a finance company or other third party prior to midnight of the fifteenth business day following the day the contract was signed.

15. Whenever the signature of a prospective purchaser of land is solicited during the course of a sales presentation, failing to inform each purchaser orally, prior to or at the time he signs the contract, of his right to cancel as provided for in paragraph 11 above.

16. Requiring the purchaser to make a personal inspection of his lot, the subdivision in which it is located, or any other property, as a condition precedent to the cancellation of any contract or the refund of any moneys paid thereunder, unless respondents (a) allow such purchaser two business days following the date of inspection within which to cancel, and (b) provide the purchaser at the time of inspection with a notice which clearly and conspicuously states (i) that the purchaser has two business days within which to cancel, (ii) that, in order to cancel, the purchaser must give respondents written notification by registered or certified mail of his desire to cancel, (iii) the final date by which the purchaser must mail such notice of cancellation, and (iv) the address where such notice must be sent; *Provided, however,* That nothing in this paragraph of the order shall permit respondents to condition any other cancellation rights provided for in this Order on the purchaser's inspection of any property.

17. Failing to comply with §226.9 of Regulation Z, 12 CFR § 226.9, or its successor regulation.

18. Failing to disclose, clearly and conspicuously, in all promotional materials and advertisements relating to the sale of land, the following statement: "Since land values are uncertain, you should consult a qualified professional before purchasing." *Provided, however,* That the above statement shall not be required in the following:

(a) billboards;

(b) radio and television advertisements of ten seconds or less;

(c) the following advertisements when limited to soliciting requests for information through the mail;

(i) Magazine advertisements of ¼ page or less in size;

(ii) Newspaper advertisements of ⅛ page or less in size;

(iii) Radio advertisements of more than ten seconds but not more than 45 seconds in duration.

19. Representing:

(a) That the purchase of a lot in one of respondents' subdivisions is a way to insure financial security or to become wealthy;

(b) That real estate is a good or safe investment, or that the purchase of a lot in one of respondents' subdivisions is a good or safe investment;

(c) That land is becoming scarce; or

(d) That the value of any land, including lots being offered for sale or previously sold by respondents, has increased, or will or may increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchased respondents' land.

20. Misrepresentating the past, present or future sales price of lots in respondents' subdivisions.

21. Making any representation in connection with the sale of land which in any manner refers to or concerns, directly or by implication, investment in stocks, insurance, banks, or any other form of investment other than respondents' land.

22. (a) Directly stating that airports, Walt Disney World, tourism or industry may or will increase the price or value of any land or other real property sold or being offered for sale by respondents.

(b) Representing data or statistics concerning the growth or development of any geographic area or the business or industry in any geographic area, unless such representations are true and respondents have at the time of making such representations, and maintain for three years thereafter, adequate substantiation for such representations; *provided, however,* That in the event such substantiation consists of data or statistics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

23. (a) Representing in any written promotional or advertising materials relating to the sale of respondents' land, including written materials prepared for use by respondents' salesmen in oral presentations, that the population of any geographic area other than respondents' subdivisions has increased, is increasing, or will increase unless respondents have, at the time of making such representation, and maintain for three years thereafter, a valid study or report which demonstrates that respondents' subdivisions within such geographic area or in the general vicinity thereof will materially benefit from said population increase.

(b) Making any representation concerning the population of any geographic area, including the representations referred to in subparagraph (a) above, unless such is the fact and unless respondents have at the time of making such representation, and maintain for three years thereafter, substantiating data which shall consist of a valid census or other valid report or study; *provided, however,* That in the event such substantiation consists of data or statistics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

24. Representing that respondents will buy back lots from or resell lots for purchasers, unless such is the fact.

25. Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation (a) the year by which such recreational facility will be completed, and (b) the current approximate cost to purchasers and to their families of memmisrepresenting the recreational facilities available at respondents' subdivisions available at respondents' subdivisions generally or from individual lots therein.

26. Representing that waterfront property provides access by boat to the Atlantic Ocean, Gulf of Mexico, or any other body of water, or that canals are navigable or can be used for any recreational activity, unless such is the fact and unless all significant qualifications pertaining to such access, navigability or use are clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation.

27. Representing that Golden Gate:

(a) has shopping facilities or stores without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the nature or extent of these facilities;

(b) has resort facilities without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation that Golden Gate does not have beaches or fishing and boating facilities, unless the contrary is in fact true.

28. Representing:

(a) That River Ranch Acres or Remuda Ranch Grants will be developed in any manner;

(b) That all purchasers of lots in River Ranch Acres or Remuda Ranch Grants can make substantial use of their lots in the present or in the future; or

(c) That purchasers of land have the right to lease to third persons or otherwise have any rights of enjoyment or possession during the contract term in the lots which they have agreed to purchase, unless such is the fact.

29. Assigning similar names to new subdivisions in which the facilities, improvements, and utilities available in such subdivisions are not substantially identical.

30. (a) Making any representation concerning Cape Coral or any other homesite subdivision at a sales presentation at which one or more lots not located in a homesite subdivision are being offered for sale; or

(b) Making any representation concerning any improvement, utility or rec-

reational facility at one subdivision at a sales presentation for another subdivision at which respondents have not provided and are not obligated to provide similar improvements, utilities, or recreational facilities unless respondents disclose in immediate conjunction therewith and with the same conspicuousness as such representation that similar improvements, utilities, or recreational facilities will not be provided at the subdivision to which the advertisement or sales presentation is directed.

31. Misrepresenting the amount, proportion or magnitude of roads or canals completed or under construction in any subdivision.

32. Misrepresenting the qualities, characteristics, location or state of present or planned development of any subdivision or portion thereof.

33. Making any statement or representation concerning the proximity of any city or place to a subdivision or a part thereof without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the approximate distance in road miles from the geographic center of the subdivision or part thereof to the other city or place referred to.

34. Making any statement or representation concerning the purchase price of land without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement or representation the nature and estimated amount of any additional payments, including but not limited to payments for property taxes, which must be made by the purchaser to respondents or to any third party in order to purchase such land.

35. Representing that central sewage and/or water systems will be available in a subdivision when a given level of population density is reached unless it is clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation that purchasers will be required to install, at their own expense, wells and septic tanks until said level of population density is reached.

36. (a) Representing that free or low cost transportation to or accommodations at respondents' subdivisions will be provided unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation all conditions or limitations applicable thereto.

(b) Failing to provide the aforesaid transportation or accommodations on the date or within the time period stated or agreed upon; *provided, however,* That it shall not be a violation of this paragraph of the order if such transportation or accommodations are not available due to conditions beyond the control of respondents.

(c) In the event the aforesaid transportation or accommodations are not provided on the date or within the time period stated or agreed upon, failing within 30 days to offer to refund and, upon request by the purchaser, to refund all moneys paid (i) under a contract entered into prior to said failure to provide such transportation or accommodations, and (ii) toward such transportation or accommodations; *provided, however,* That respondents shall not be required to make refunds under subpart (i) above if such transportation or accommodations are not available due to conditions beyond the control of respondents.

37. Making any statement concerning any credit, refund or other monetary benefit or remuneration to purchasers or prospective purchasers unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement all conditions and limitations applicable to such credit, refund, benefit, or remuneration.

38. Referring to any instrument or document as a "credit check" or otherwise representing that a credit toward a purchaser's account is an actual payment to the purchaser in the form of cash, check, or other negotiable instrument.

39. Representing that persons being solicited to purchase respondents' land are being asked to take the first step, or are reserving the land, or are not making a final decision, or are not buying the land; or otherwise misrepresenting the legal significance of signing a contract.

40. Representing that prospective purchasers must sign a contract immediately in order to assure purchasing property in a choice location, or that property similar to that being offered for sale may not or will not be available or available at the same price in the foreseeable future, unless such is the fact.

41. In connection with the sale of land:

(a) Representing that increasing the amount of the monthly payment will speed up passage of title, unless such is the fact;

(b) Representing that increasing the amount of the monthly payment will speed up completion of improvements; or

(c) Misrepresenting the benefits to be obtained by increasing the amount of the monthly payment or by completing payment of the purchase price prior to the date the final payment is due under the contract.

42. Representing that any document, sales presentation, advertisement or promotional material has been filed with or approved by any State, the Federal Department of Housing and Urban Development, the Armed Forces or any other governmental agency, unless such is the fact; or representing that governmental regulation means that respondents' representations are true, complete, or should be relied upon; or representing that respondents are affiliated in any manner with the Armed Forces of the United States or any government or governmental agency.

43. Including in any contract or other document any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this order, except as such waiver, limitation or condition is by this order expressly allowed; *provided, however,* That this Paragraph shall not be construed as prohibiting respondents from conditioning the purchaser's right to cancel and receive a refund under any provision of this order on the purchaser's relinquishing and, where appropriate, reconveying to respondents his interest in the land which is the subject of the transaction being cancelled.

44. Misrepresenting the right of a purchaser to cancel a transaction or receive a refund under any provision of this order or any applicable statute or regulation.

45. Making any representation or taking any action which is inconsistent with or detracts from the effectiveness of this order.

*It is further ordered:* That respondents, upon receipt of a complaint from a purchaser alleging facts that indicate this order may have been violated and requesting a refund or cancellation of the purchaser's contract, refund all moneys paid by such purchaser where respondents determine, after a good faith investigation, that one or more of the paragraphs in section I of this order have been violated in connection with such purchaser's transactions with respondents; *provided, however,* That in the event respondents refund any money pursuant to this paragraph of the order, the sole fact of such refund shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this order; *and further provided,* That this paragraph shall not be applicable to transactions in which the contract was entered into prior to the date this order became final.

II.

*It is further ordered:* In connection with the refund of moneys forfeited under contracts in default prior to the date this order becomes final:

A. That respondents compile a list of the last known name and address of all persons entering into contracts for the purchase of respondents' land who defaulted on said contracts and forfeited moneys paid in excess of the sum of the downpayment plus an amount equal to 30 standard monthly payments as stated in the contract, said list to contain all such forfeitures from July 1, 1968 to the date this order becomes final; *provided, however,* That for contracts which were entered into or amended as a result of an exchange by which land purchased pursuant to a single contract was exchanged for land with a higher total price, the terms of the original contract entered into by the purchaser prior to such exchange shall be used to compute the sum of the downpayment and an amount equal to 30 standard monthly payments.

B. That respondents send a letter within 12 months of the date this order

becomes final, by first class mail, to each person referred to in paragraph A above, advising them of their right to a refund as set out below, the approximate time period and manner in which such refund will be made, and the need for notifying respondents of any future change of residence or address where such refund can be delivered; *provided, however,* That with respect to those purchasers whose letters are returned to respondents undelivered, respondents shall seek to obtain, prior to the date respondents are obligated to commence making refunds to purchasers as set out in paragraph D below, a current mailing address for such purchasers by a method acceptable to the Federal Trade Commission, such as but not limited to contacting credit bureaus and telephone and utilities companies, and, where the foregoing are unsuccessful and the amount to be refunded exceeds $50.00, employment of an independent contractor engaged in the business of skip-locating; *and further provided,* That with respect to those purchasers entitled to a refund under this section of the order whose letters are returned to respondents undelivered, respondents' obligation to make refunds shall terminate after respondents' efforts as outlined above have been unsuccessful, but in no event shall respondents' obligations with respect to such purchasers expire prior to 24 months after the date this order becomes final.

C. That respondents refund to each purchaser for whom a current mailing address has been obtained pursuant to paragraph B above all moneys paid by such purchaser to respondents in excess of the sum of the downpayment plus an amount equal to 30 standard monthly payments as stated in the contract; *provided, however,* That for contracts which were entered into or amended as a result of an exchange by which land purchased pursuant to a single contract was exchanged for land with a higher total price, the terms of the original contract entered into by the purchaser prior to such exchange shall be used to compute the sum of the downpayment and an amount equal to 30 standard monthly payments.

D. That respondents' obligation to make refunds under this section of the order shall commence 24 months after the date this order becomes final, such refunds to be payable over a period of not more than eight years after said 24-month period.

E. That the total refund payments made each year during said eight-year period referred to in paragraph D above shall be approximately equal; *provided, however,* That in the event respondents accelerate such refund schedule, each year's total payments under such accelerated schedule shall equal at least one-eighth (⅛) of the total refunds to be made.

F. That the refund payments made to purchasers pursuant to this section of the order shall be made in either of the following manners:

1. All refund payments shall equal the entire sum due a purchaser, such payments to be made in chronological order by date of forfeiture, the purchasers forfeiting at the earliest dates receiving the first refunds; or

2. All purchasers shall receive proportionately equal annual installments of the sums due them; *provided, however,* That respondents may at their discretion make payment in full in a single payment to purchasers to whom only a small sum is due.

G. That respondents maintain, for 12 years after the date this order becomes final or three years after the last refund payment is made pursuant to an accelerated refund schedule, whichever occurs first, records which are adequate to disclose respondents' compliance with this section of the order, such records to be furnished by respondents to the Federal Trade Commission upon request.

III

*It is further ordered:* In connection with the future development of Golden Gate Estates:

A. That respondents assure the availability of an adequate supply of potable water and an adequate sewage system to each homesite in Golden Gate Estates by means of a well or central water system and a septic tank or central sewage system.

B. That in the event it becomes necessary for respondents to install or have installed central water and/or central sewage systems with respect to one or more homesites in Golden Gate Estates:

1. Respondents may condition the hook-up of said central water and sewage systems to each homesite upon the respective purchasers' payment of a reasonable and customary main-line extension fee as approved by the appropriate governmental body; *provided, however,* That no purchaser shall be assessed in any manner for the extension of main lines to or past one or more lots which such purchaser does not own; and

2. Such systems must be made available to each homesite not then served by a septic tank and well within 90 days after respondents; receipt of written notice of the issuance of a building permit with respect to such homesite.

C. That in the event an adequate supply of potable water or an adequate sewage system is not available to any homesite in Golden Gate Estates as set out in paragraphs (A) and (B) above, respondents, upon written notification of such unavailability by the purchaser of such homesite, shall (1) reimburse said purchaser for his cost of any test or procedure used to determine the unavailability of water or sewage disposal; and (2) exchange said homesite for another homesite of equivalent zoning classification and located in the same general geographic area of Golden Gate Estates to which an adequate supply of potable water and an adequate sewage system are available; *provided, however,* That in the event no lots are available in Golden Gate Estates for purposes of such exchange, respondents shall offer the purchaser, at respondents' option, either a refund of all moneys paid under the contract or an alternative exchange acceptable to the purchaser.

D. That respondents make available to each lot in Golden Gate Estates within 180 days after receipt of written notice of the issuance of a building permit, at no initial cost to the purchaser other than nominal hook-up and installation fees and thereafter at customary and usual rates:

1. standard electrical service from an authorized local utility; and

2. standard telephone service from an authorized local utility.

*Provided, however,* That in the event either electrical service or telephone service is not available as set out above to any lot in Golden Gate Estates, respondents, upon written notification of such unavailability by the purchaser of such lot, shall exchange said lot for another lot of equivalent zoning classification and located in the same general geographic area of Golden Gate Estates to which such electrical service and telephone service are available; *and further provided,* That in the event no lots are available in Golden Gate Estates for purposes of such exchange, respondents shall offer the purchaser, at respondents' option, either a refund of all moneys paid under the contract or an alternative exchange acceptable to the purchaser.

E. Respondents, within 13 years after date this order becomes final, shall convey the fee simple title of not less than eleven hundred (1100) acres in Golden Gate Estates to Collier County, Florida, or any other appropriate public agency free and clear of any debt, obligation, encumbrance, or impediment to the title thereof to be used for any public purpose of benefit to Golden Gate Estates; *provided, however,* That if by the end of said 13-year period any portion of said eleven hundred (1100) acres has not been dedicated to and accepted by the Commissioners of Collier County, Florida, or any other appropriate public agency, respondents shall dedicate the remaining acreage as a private park for the use of the general public.

F. That respondents complete the installation of roads and drainage improvements in Golden Gate Estates as provided in the plats and bonding agreements on file with Collier County, Florida, on December 31, 1973.

G. That respondents send a letter or notice within 90 days after the date this order becomes final to all purchasers in Golden Gate Estates who are making monthly payments as of the date this order becomes final, advising them of the development program set out in this section of the order.

IV.

For purposes of this section of the order, the following definitions shall be applicable:

When used in reference to land at Remuda Ranch Grants or River Ranch Acres, "lot" shall mean a parcel of land

approximately 1¼ acres in size, and "lots" shall mean a parcel or parcels of land purchased pursuant to a single contract with respondent GAC Properties Inc., or its predecessor Gulf American Corporation, the total acreage of which is a multiple of the approximately 1¼ acre parcel comprising a lot.

*It is further ordered:* in connection with the exchange of land purchased in Remuda Ranch Grants and River Ranch Acres:

A. That respondents compile a list containing the last known name and address of the purchaser and date of purchase for each contract for the purchase of a lot or lots in Remuda Ranch Grants or River Ranch Acres where the purchaser is either deeded or has an outstanding contract not in default, said list to be arranged in chronological order by subdivision and grouped according to the number of lots purchased.

B. That respondent send a letter as set out in Appendix A or B, as applicable, within six (6) months of the date this order becomes final and thereafter in accordance with paragraph G below, by certified mail, return receipt requested, to the following of the purchasers referred to in paragraph A above: (1) all purchasers whose date of purchase is January 1, 1969 or later; (2) all purchasers of 3 or more lots whose date of purchase is prior to January 1, 1969; and (3) as many purchasers of 1 or 2 lots whose date of purchase is prior to January 1, 1969 as the inventory of lots set aside for this exchange offer will permit, in accordance with the schedule set out in subparagraph E(6) below.

C. That respondents enclose together with the letter referred to in paragraph B above the following material:

1. A notice of acceptance form as set out in Appendix C;

2. A document listing (a) the contract number and date of purchase for the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted and (b) the legal and/or other adequate description and approximate size concerning both the lot or lots being offered in exchange and the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted;

3. The applicable property report for the lot or lots being offered in exchange; and

4. A map or maps showing the location in the subdivision and, where available, the block or unit of the lot or lots being offered in exchange.

D. That with respect to any letter referred to in paragraph B above which is returned to respondents undelivered, respondents, within 60 days of receipt of such undelivered letter, shall take measures which are reasonably calculated to obtain the current address of the purchaser and shall deliver said letter to him; *provided, however,* That in the event respondents are unable to deliver such letter within said 60-day period, said offer of exchange shall be deemed rejected by the purchaser for purposes of this order.

E. That respondents, upon receipt of a notice of acceptance of the exchange offer provided for in this section of the order, shall exchange the lot or lots purchased in Remuda Ranch Grants and/or River Ranch Acres for land in certain of respondents' other subdivisions according to the following schedule:

1. Remuda Ranch Grants—date of purchase January 1, 1969 or later:

(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase: *Provided, however,* That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(b) A purchaser of 1 or 2 lots may exchange such lots for 1 homesite lot in Golden Gate Estates.

2. River Ranch Acres—date of purchase January 1, 1969 or later:

(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase: *Provided, however,* That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(b) A purchaser of 1 or 2 lots may exchange such lot or lots for 1 homesite lot in River Ranch Shores.

3. Date of purchase prior to January 1, 1969:

(a) Remuda Ranch Grants—A purchaser of 3 or more lots may exchange such lots for lots in Golden Gate Estates which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however,* That no such purchaser shall be offered less than 1 Golden Gate Estates lot in exchange for all the lots he has purchased.

(b) River Ranch Acres—A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase: *Provided, however,* That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(c) Remuda Ranch Grants and River Ranch Acres—A purchaser of 1 or 2 lots may exchange such lot or lots for 1 lot, to be located in either Golden Gate Estates or River Ranch Shores at the discretion of respondents, subject to the inventory of lots set aside for the exchange offer as provided for in subparagraph 4 below.

4. For purposes of the exchange offer provided for in this section, respondents shall make available 3,429 lots in Golden Gate Estates, 7,058 lots in River Ranch Shores, and enough lots in Cape Coral to meet the demands of subparts 1(a), 2(a), and 3(b) above: *Provided, however,* That in the event respondents' inventory of lots in Cape Coral should prove insufficient to meet the demands of the exchange offer provided for in this section, lots in Poinciana shall be substituted: *And further provided,* That in the event any governmental regulation prevents the use of any portion of Golden Gate Estates as provided for in this section of the order, respondents may offer to the applicable purchasers an alternative exchange, acceptable to the Commission, of a homesite lot in another subdivision.

5. (a) The lots in Golden Gate Estates to be offered in exchange pursuant to this section of the order shall be developed in accordance with section III above.

(b) The lots in Cape Coral, River Ranch Shores, and Poinciana to be offered in exchange pursuant to this section of the order shall be developed in accordance with the most recent applicable property report on file on the date this order becomes final with the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development: *Provided, however,* That in the event no property report is on file with the Office of Interstate Land Sales Registration with respect to any lot in Cape Coral, River Ranch Shores, or Poinciana which is being offered in exchange pursuant to this section of the order, such lot shall be developed in accordance with the most recent applicable property report or offering statement on file with the State of Florida.

6. For purposes of the exchange offer set out in subpart 3(c) above, such exchanges shall be made until the inventory of lots in Golden Gate Estates and River Ranch Shores set out in subparagraph 4 above is exhausted, subject to the following conditions:

(a) the exchanges shall be offered to all purchasers of 2 lots prior to being offered to purchasers of 1 lot; and

(b) the exchanges shall be offered to purchasers by date of purchase in reverse chronological order (most recent purchase exchanged first).

F. That in the event a purchaser fails to mail a notice of acceptance to respondents within 60 days of his receipt of the letter referred to in Paragraph B above, then for purposes of this order such purchaser shall be deemed to have rejected the exchange offer.

G. That within 120 days of the initial exchange offer set out in paragraph B above, respondents shall offer all lots referred to in subparagraph E(4) above for which an exchange offer has been rejected to the next purchasers eligible to receive said exchange offer in accordance with subparagraph E(6) above; and respondents shall thereafter continue, at intervals not to exceed 120 days, to offer all lots for which an exchange offer has been rejected to the next eligible purchasers until either all the aforesaid lots have been exchanged or the list of purchasers eligible to receive the exchange offer has been exhausted.

H. That the ten-day right of cancellation provided for in Paragraphs 6 through 10 of section I of this order shall not be applicable to lots exchanged pursuant to this section of the order.

I. That respondents may condition the exchange offer under this section of the order on the purchaser's execution of a quit-claim deed and/or other documents necessary to release his interest in the lot or lots being given up in exchange, such document or documents to be prepared by respondents.

J. That respondents maintain, for three years after the final exchange is made pursuant to this section of the order, records which are adequate to disclose respondents' compliance with this section of the order, such records to be furnished by respondents to the Federal Trade Commission upon request.

APPENDIX A

_____
(Date)

DEAR CUSTOMER: GAC Properties Inc. (formerly Gulf American Corporation) has entered into an agreement with the Federal Trade Commission pursuant to which GAC Properties is required to offer to purchasers of lots in River Ranch Acres an option to exchange their lots for property in certain of GAC Properties' other subdivisions. Under the terms of the agreement, you are entitled to exchange your lot or lots in River Ranch Acres for the property described in the attached material.

In deciding whether to accept this offer, you should be aware that whereas River Ranch Acres will not be developed in any manner and virtually all lots therein are inaccessible by conventional means of transportation, the property being offered in exchange has been or will be developed, with roads, drainage and utilities, for use as homesites. Also note that the property being offered in exchange may not be as large as your present lot or lots. A property report and other materials which describe in detail the property to be received in exchange are enclosed and should be examined with care. In addition, it is recommended that you consult a lawyer, realtor or other qualified professional before making your decision.

If you are still making monthly payments under the terms of your original contract, you must continue to do so. On the other hand, if you have completed your payments and have received a deed or Certificate for Deed for one or more lots at River Ranch Acres, you will be required, as a condition to accepting this offer, to reconvey to GAC your interest in such lot or lots, and you will receive in return a deed to the new property which you will receive in exchange. In either event, by accepting this offer you will thereby relinquish any and all rights to the lot or lots which you purchased under your original contract. Furthermore, if you accept this offer, any legal claims which you may otherwise have against the seller or developer arising out of your original purchase may be adversely affected. To accept this offer, you must sign and return to GAC by certified mail the enclosed Notice of Acceptance not later than 60 days from the date you receive this letter. Any inquiries regarding this offer should be directed to GAC Properties Inc. at _____, or
(respondent's telephone number)
write the Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Very truly yours,

_____
(Signed)
President, GAC Properties, Inc.

APPENDIX B

_____
(Date)

DEAR CUSTOMER: GAC Properties Inc. (formerly Gulf American Corporation) has entered into an agreement with the Federal Trade Commission pursuant to which GAC Properties is required to offer to purchasers of lots in Remuda Ranch Grants an option to exchange their lots for property in certain of GAC Properties' other subdivisions. Under the terms of the agreement, you are entitled to exchange your lot or lots in Remuda Ranch Grants for the property described in the attached material.

In deciding whether to accept this offer, you should be aware that whereas Remuda Ranch Grants will not be developed in any manner and virtually all lots therein are inaccessible by conventional means of transportation, the property being offered in exchange has been or will be developed, with roads, drainage and utilities, for use as homesites. Also note that the property being offered in exchange may not be as large as your present lot or lots. A property report and other materials which describe in detail the property to be received in exchange are enclosed and should be examined with care. In addition, it is recommended that you consult a lawyer, realtor or other qualified professional before making your decision.

If you are still making monthly payments under the terms of your original contract, you must continue to do so. On the other hand, if you have completed your payments and have received a deed or Certificate for Deed for one or more lots at Remuda Ranch Grants, you will be required, as a condition to accepting this offer, to reconvey to GAC your interest in such lot or lots, and you will receive in return a deed to the new property which you will receive in exchange In either event, by accepting this offer you will thereby relinquish any and all rights to the lot or lots which you purchased under your original contract. Furthermore, if you accept this offer, any legal claims which you may otherwise have against the seller or developer arising out of your original purchase may be adversely affected. To accept this offer, you must sign and return to GAC by certified mail the enclosed Notice of Acceptance not later than 60 days from the date you receive this letter. Any inquiries regarding this offer should be directed to GAC Properties Inc. at _____, or
(respondents' telephone number)
write the Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Very truly yours,

_____
(Signed)
President, GAC Properties Inc.

NOTICE OF ACCEPTANCE

Contract Number _____
(To be filled in by Purchaser)

I hereby accept the exchange offer described in the materials sent to me by GAC Properties Inc.

I understand that I will be required to execute one or more documents, to be prepared by GAC Properties Inc., relinquishing all rights in the lot or lots purchased under the above contract number. In return, I will be sent a deed or other evidence of interest in the property which I will receive in exchange.

All purchasers must sign below

_____ _____
(Date) (Purchaser's Signature

_____
(Purchaser's Signature)

NOTE.—This Notice of Acceptance must be returned to GAC Properties Inc., _____,
(respondent's address)
by certified mail.

APPENDIX C

V.

For purposes of this section of the order, the following definition shall be applicable:

"Residential property" shall mean land located in a subdivision in which the majority of lots are sold or offered for sale for use as homesites.

*It is further ordered:* A. (1) That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of residential property to consumers which are entered into after the date this order becomes final, and shall make refunds in accordance therewith:

In the event of Buyer's default, Seller shall refund to Buyer within 180 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

a. If Buyer's total principal payments do not exceed 30 percent of the cash price, Buyer shall not receive any refund whatsoever.

b. If Buyer's total principal payments exceed 30 percent but are less than 66⅔ percent of the cash price, Buyer shall receive a refund of two-thirds of all principal payments made in excess of 30 percent of the cash price.

c. If Buyer's total principal payments are in excess of 66⅔ percent of the cash price, Buyer shall receive a refund of one-half of all principal payments made in excess of 66⅔ percent of the cash price, together with and in addition to all sums refundable to Buyer under subpart b above.

(2) That in the event the rate of default for all contracts for the sale of respondents' land to consumers in which the amount of principal paid exceeds 30 percent of the cash price due thereunder, which are entered into during the ten-year period after the date this order becomes final, does not exceed by more than ten percent the rate of default, computed in the same manner, for all such contracts for the three-year period immediately preceding the date this order becomes final, the following schedule of refunds shall be included by respondents in all installment contracts for the sale of residential property to consumers which are entered into more than 90 days after the expiration of said ten-year period, in lieu of the schedule of refunds set out in subparagraph A(1) above:

a. If Buyer's total principal payments do not exceed 30 percent of the cash price, Buyer shall not receive any refund whatsoever.

b. If Buyer's total principal payments exceed 30 percent of the cash price, Buyer shall receive a refund of 75 percent of all principal payments made in excess of 30 percent of cash price.

(3) That respondents submit to the Federal Trade Commission, within 90 days after the date this order becomes final, data disclosing the rate of default referred to in subparagraph A(2) above for the three-year period immediately preceding the date this order becomes final, and documentation in support thereof.

B. That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of land other than residential property to consumers which are entered into after the date this order becomes final, and shall make refunds in accordance therewith:

In the event of Buyer's default, Seller shall refund to Buyer within 180 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

1. If Buyer's total principal payments do not exceed 30 percent of the cash price, Buyer shall not receive any refund whatsoever.

2. If Buyer's total principal payments exceed 30 percent of the cash price, shall receive a refund of 75 percent of all principal payments made in excess of 30 percent of the cash price.

C. That respondents may condition their payments of refunds under this section of the order on the purchaser's execution of a quit-claim deed and/or other documents necssary to release his interest in the land purchased from respondents pursuant to the contract in default, such document or documents to be prepared by respondents.

D. That in the event the Federal Trade Commission promulgates a valid Trade Regulation Rule applicable to respondents' sale of land to consumers which regulates the amount or percentage of moneys paid by a purchaser which may be retained by the seller in the event of the purchaser's default, then this section of the order shall be deemed modified by said Trade Regulation Rule; *provided, however,* That this paragraph shall not be construed as waiving or in any way limiting respondents' legal rights or standing to challenge or otherwise contest such a Trade Regulation Rule.

VI.

*It is further ordered:* (a) That in the event respondents fail to correct any default under a contract entered into prior to the effective date of this Order within six months after receiving notice in writing from the purchaser of said default, respondents shall, within ten days after completion of said six-month period, notify the purchaser that, at his option, he may receive a refund of all moneys paid under the contract or an exchange acceptable to him of the contracted-for property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision.

(b) That respondents shall make the exchange or refund requested by the purchaser under the terms of paragraph (a) above within 60 days of receipt of the purchaser's acceptance of said exchange or refund; *Provided, however,* That in the event the purchaser has received a deed or other evidence of interest in the contracted-for property other than the contract, the purchaser must, as a condition of obtaining such refund or exchange, reconvey to the seller such evidence of interest by General Warranty Deed in recordable form; *And further provided,* That in the event only the contract has been recorded in the Public Records, the purchaser must quit claim in recordable form his interest to the seller to remove any clouds on the title to such property.

VII

*It is further ordered:* (a) That respondents herein deliver, by hand or by certified mail, a copy of sections I and VI through X of this order to each of their present or future salesmen, independent brokers, and employees who sell or promote the sale of land or other real property to consumers, and all others so engaged;

(b) That respondents provide each person so described in paragraph (a) above with a form, returnable to respondents, clearly stating his intention to be bound by and to conform his sales practices to the requirements of this order;

(c) That respondents inform each person described in paragraph (a) above that respondents shall not use any such party, or the services of any such party, unless such party agrees to and does file notice with respondents that it will be bound by the provisions contained in this order;

(d) That in the event such party will not agree to so file notice with respondents and to be bound by the provisions of this order, respondents shall not use such party, or the services of such party;

(e) That respondents so inform the persons described in paragraph (a) above that respondents are obligated by this order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this order;

(f) That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in paragraph (a) above conform to the requirements of this order; and

(g) That respondents discontinue dealing with any person described in paragraph (a) above, revealed by the aforesaid program of surveillance, who engages on his own in the acts or practices prohibited by this order by present or future employees of independent brokers shall not be deemed a violation of this order by respondents unless respondents, upon knowledge of such violation, fail to take, within a reasonable time, corrective action to insure that such act or practice is terminated: *And further provided,* That in the event remedial action is taken, the sole fact of such dismissal or termination shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this order.

VIII.

*It is further ordered:* (a) That in the event the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§ 1701–20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, requires an act or practice which is prohibited by any provision of this order, such order prohibition shall be inoperative.

(b) That in the event any provision of this Order requires an act or practice which is prohibited by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. 1701–20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, such order requirement shall be inoperative.

IX

*It is further ordered:* That this order shall become effective in accordance with standard Commission procedure: *Provided, however,* That all written advertising and promotional materials, and form contracts, which must be filed with and accepted for dissemination by state or federal agencies, shall not be subject to the provisions of this order, except for those provisions which prohibit or limit the use of any statement, representation, or misrepresentation, for a period of six months from the date this order becomes final or until said acceptance for dissemination is obtained from all applicable state or federal agencies, whichever occurs first: *And further provided,* That until said six-month period expires or said acceptance for dissemination is obtained, whichever occurs first, respondents shall file with the Federal Trade Commission monthly reports detailing respondents' progress toward obtaining the aforementioned acceptance for dissemination by the applicable state or federal agencies.

X.

*It is further ordered:* That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions engaged in the sale of land or other real property to consumers.

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

*It is further ordered:* That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emer-

gence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

Decision and order issued by the Commission July 23, 1974.

VIRGINIA M. HARDING,
*Acting Secretary.*

[FR Doc.74-21964 Filed 9-20-74;8:45 am]

## Title 18—Conservation of Water and Power Resources

### CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-432(A); Order No. 512]

### PART 141—STATEMENTS AND REPORTS (SCHEDULES)

#### Monthly Report of Cost and Quality of Fuels for Electric Plants

SEPTEMBER 12, 1974.

By notice issued in Docket No. R-432 (A) on July 19, 1973 the Federal Power Commission proposed to amend FPC Form No. 423, Monthly Report of Cost and Quality of Fuel for Steam Plant, designated in 18 CFR 141.61, prescribing collection of monthly fuel costs and quality determinants of fuel received at steam generating plants of electric utilities. The Commission proposed to revise Form 423 to include monthly purchase reports for fuels whch are to be used in gas turbine and internal combustion engine generation of power by electric utilities in addition to that information presently required for steam generating plants.

Form 423 is presently designated to obtain monthly data on the cost and quality of fuels received at steam electric generating plants. A separate form is to be completed by each electric power producer for each of its steam electric generating plants having a capacity of 25 megawatts or greater during the reporting month. The completed form is due on the 45th day after the close of the reference month.

On June 7, 1972, the Commission issued Order No. 453 in Docket No. R-432 enacting the new 18 CFR 141.61 and FPC Form 423. On August 3, 1972, the Commission issued an order denying the application for rehearing in Docket No. 432 made by the National Coal Association. This denial was appealed to the United States Court of Appeals for the District of Columbia. *National Coal Association* v. *Federal Power Commission* No. 72-1919, D.C. Cir., filed October 2, 1972. The parties to this appeal filed, on May 14, 1973, a joint motion to withdraw the above appeal, which was approved by the Court nunc pro tunc. Subsequently, on application of Alabama Power Company and other electric utilities, the Commission, on March 2, 1973, issued, *Order Denying Petition for Amendment of the Commission's Regulations with Respect to Form No. 423*, in Docket No. R-432. An Order Denying Rehearing in this matter was issued on April 16, 1973, and this denial has been appealed to the Circuit Court of Appeals for the District of Columbia. *Alabama Power Company, et al.* v. *Federal Power Commission*, No. 73-1436, D.C. Cir., filed April 25, 1973.

Twenty-seven utilities and three nonutility groups submitted responses to this notice of proposed rulemaking. Twenty-four utilities proposed that the cost of fuels to utilities should be held confidential, arguing that since the inception of Form 423 it had become extremely difficult for a purchaser to negotiate best buy contracts in an arms length bargaining process. However, trade publications such as *Platts' Oilgram* are already an easy source of regional fuel prices open to fuel suppliers. Assuming arguendo that the utilities companies did show some harm from public disclosure, such harm must still outweigh the benefit accruing to the overall public interest from full disclosure of the data.

It was also argued that public use of Form 423 has altered the competitive structure of the coal and oil supply markets in a manner contrary to the policies of antitrust laws. Assuming this were true, that fact could still not bar a governmental agency from fully disclosing the information when it had been lawfully determined that such action would best serve the overall public interest.

Favorable comments were received from the Treasury Department and the Petrochemical Group. The former stated tillates was important and would be of that accurate information concerning the availability of natural gas and distillates was important and would be of significance in regard to the surveillance of the oil-import control program as well as in an array of analytical applications.

After consideration of the comments received in response to the Notice, the Commission has determined that revised Form 423 should be adopted as proposed to include monthly purchase reports for fuels which are to be used in gas turbine and internal combustion engine generation of powder by electric utilities.

The Commission feels that the proposed amendments are necessary to provide information on utility purchases of fuels for the important generation segment represented by gas turbines and internal combustion engines and to provide timely data on a comparable basis for each type of fuel by quality determinants.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding through the submission in writing of data, views, comments and suggestions in the manner described above are consistent and in accordance with the procedural requirements prescribed in 5 U.S.C. 553.

(2) The amended Form hereinafter set forth is necessary and appropriate in the administration of the Federal Power Act.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 202, 301, 304(a), 309 and 311 (49 Stat. 848, 849, 854, 855, 856, 858, 859; 67 Stat. 461; 16 U.S.C. 824a, 825, 825c, 825h, 825j) orders:

(1) FPC Revised Form No. 423 as set out in Attachment A[1] to this order is hereby adopted.

(2) The Revised Form adopted herein shall be effective as of October 1, 1974.

The Secretary shall cause prompt publication of this Order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22020 Filed 9-20-74;8:45 am]

## Title 21—Food and Drugs

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

#### SUBCHAPTER C—DRUGS

### PART 135—NEW ANIMAL DRUGS

### PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

#### Tylosin

The Commissioner of Food and Drugs has evaluated a new animal drug application (97-289V) filed by Feed Specialties Co., 1877 NE 58th Ave., Des Moines, IA 50313, proposing the safe and effective use of tylosin premix in the manufacture of animal feed. The application is approved.

To facilitate referencing, the firm is being assigned a code number and placed in the list of firms in 21 CFR 135.501(c).

Therefore, pursuant to provisions of 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 (21 CFR 2.120), Parts 135 and 135e are amended as follows:

1. In § 135.501(c) by adding a new sponsor as follows:

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

* * * * *

(c) * * *

| *Code No.* | *Firm name and address* |
|---|---|
| * | * * * * |
| 115 -------- | Feed Specialities Co., 1877 NE 58th Ave., Des Moines, IA 50313. |

2. In § 135e.10 by adding a new paragraph (b)(11) as follows:

§ 135e.10 Tylosin.

* * * * *

(b) * * *

(11) To 115: 10 grams per pound; item 4.

* * * * *

[1] Attachment A filed as part of the original document.

*Effective date.* This order shall be effective September 23, 1974.

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

Dated: September 13, 1974.

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

[FR Doc.74-21951 Filed 9-20-74;8:45 am]

## SUBCHAPTER D—DRUGS FOR HUMAN USE

### AMOXICILLIN

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug amoxicillin.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for its certification.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 430, 436 and 440 in Subchapter D of Chapter I of Title 21, Code of Federal Regulations, are amended as follows:

## PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended in Subpart A:

a. In § 430.5 by adding paragraphs (a)(53) and (b)(53), as follows:

**§ 430.5 Definitions of master and working standards.**

(a) * * *

(53) *Amoxicillin.* The term "amoxicillin master standard" means a specific lot of amoxicillin that is designated by the Commissioner as the standard of comparison in determining the potency of the amoxicillin working standard.

(b) * * *

(53) *Amoxicillin.* The term "amoxicillin working standard" means a specific lot of a homogeneous preparation of amoxicillin.

b. In § 430.6 by adding a new paragraph (b)(56), as follows:

**§ 430.6 Definition of the terms "unit" and "microgram" as applied to antibiotic substances.**

* * * * * * *

(b) * * *

(56) *Amoxicillin.* The term "microgram" applied to amoxicillin means the amoxicillin activity (potency) contained in 1.17647 micrograms of the amoxicillin master standard.

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended:

a. In Subpart C, by amending § 436.33(b) by alphabetically inserting a new item in the table, as follows:

**§ 436.33 Safety test.**

* * * * * * *

(b) * * *

| Antibiotic drug | Diluent (diluent number as listed in § 436.31) | Test dose: Concentration in units or milligrams of activity per milliliter | Test dose: Volume in milliliters to be administered to each mouse | Route of administration as described in paragraph (c) of this section |
|---|---|---|---|---|
| Amoxicillin | 9 | 20 mg | .5 | Intravenous. |

* * * * * * *

b. In Subpart D, by amending § 436.105(a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

**§ 436.105 Microbiological agar diffusion assay.**

* * * * * * *

(a) * * *

| Antibiotic | Media to be used (as listed by medium number in § 436.102(b)): Base layer | Media to be used (as listed by medium number in § 436.102(b)): Seed layer | Milliliters of media to be used in the base and seed layers: Base layer | Milliliters of media to be used in the base and seed layers: Seed layer | Test organism | Suggested volume of standardized inoculum be added to each 100 milliliters of seed agar | Incubation temperature for the plates |
|---|---|---|---|---|---|---|---|
| | | | | | | *Milliliters* | *Degrees C.* |
| Amoxicillin | 11 | 11 | 21 | 4 | C | 0.5 | 32 to 35. |

* * * * * * *

(b) * * *

| Antibiotic | Working standard stock solutions: Drying conditions method number as listed in § 436.200) | Working standard stock solutions: Initial solvent | Working standard stock solutions: Diluent (solution number as listed in § 436.101(a)) | Working standard stock solutions: Final concentrations, units or milligrams per milliliter | Working standard stock solutions: Storage time under refrigeration | Standard response line concentrations: Diluent | Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter |
|---|---|---|---|---|---|---|---|
| Amoxicillin | Not dried | | Distilled water | 1.0 mg | 7 days | 3 | 0.064, 0.080, 0.100, 0.125 and 0.156 μg. (Prepare the standard response line simultaneously with the sample solution.) |

* * * * * * *

c. In Subpart E, by amending § 436.204(b) (1) and (2) by alphabetically inserting a new item in the respective tables as follows:

**§ 436.204 Iodometric assay.**

* * * * * * *

(b) * * *

(1) * * *

| Antibiotic | Initial solvent | Diluent (solution number as listed in § 436.101(a)) | Final concentration in units or milligrams of activity per milliliter of standard solution |
|---|---|---|---|
| Amoxicillin | None | Distilled water | 1.0 milligram. |

* * * * * * *

(2) * * *

| Antibiotic | Initial solvent | Diluent (solution number as listed in § 436.101(a)) | Final concentration in units or milligrams of activity per milliliter of sample |
|---|---|---|---|
| Amoxicillin | None | Distilled water | 1.0 milligram. |

* * * * * * *

* * * * * * *

d. In Subpart E, by amending § 436.205 (b) and (c) by alphabetically inserting a new item in the respective tables as follows:

**§ 436.205 Hydroxylamine colorimetric assay.**

* * * * * * *

(b) * * *

| Antibiotic | Diluent (solution number as listed in § 436.101(a)) | Final concentration in milligrams per milliliter of standard solution |
|---|---|---|
| Amoxicillin | Distilled water | 1.0. |

* * * * *

(c) * * *

| Antibiotic | Diluent (solution number as listed in § 436.101(a)) | Final concentration in milligrams per milliliter of standard solution |
|---|---|---|
| Amoxicillin | Distilled water | 1.0. |

* * * * *

* * * * *

e. In Subpart E, by amending § 436.213(c) by alphabetically inserting a new item in the table, as follows:

**§ 436.213 Nonaqueous titrations.**

* * * * *

(c) * * *

| Antibiotic | Weight in milligrams of sample | Solvent |
|---|---|---|
| Amoxicillin-acid titration. | 500 | 20 milliliters dimethylsulfoxide and 30 milliliters methyl alcohol.* |
| Amoxicillin-base titration. | 500 | 50 milliliters glacial acetic acid. |

* * * * *

* * * * *

(f) By adding a new section to Subpart F as follows:

**§ 436.311 Thin layer chromatography identity test for amoxicillin.**

Using the sample solution prepared as described in the section for the antibiotic drug to be tested, proceed as described in paragraphs (a) through (e) of this section.

(a) *Equipment*—(1) *Chromatography tank.* A rectangular tank, approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide, equipped with a glass solvent trough in the bottom and a tight-fitting cover for the top. Line the inside walls of the tank with Whatman's 3MM chromatographic paper (0.33 millimeters) or equivalent.

(2) *Plates.* Use 20- by 20-centimeter thin layer chromatography plates coated with Silica Gel G or equivalent to a thickness of 250 microns.

(b) *Reagents*—(1) *Developing solvent.* Mix methyl alcohol, chloroform, pyridine, and distilled water in volumetric proportions of 90:80:10:30, respectively.

(2) *Spray solution.* Dissolve 300 milligrams of ninhydrin in 100 milliliters of ethyl alcohol.

(c) *Preparation of working standard.* Weigh an amount of the amoxicillin working standard equivalent to 200 milligrams of amoxicillin into a 50-milliliter volumetric flask and bring to volume with 0.1*N* hydrochloric acid.

(d) *Procedure.* Pour developing solvent into the chromatography tank to a depth of about 1 centimeter. Cover and seal the tank. Allow it to equilibrate for at least 2 hours. Spot duplicate plates by applying approximately 5 microliters each of standard and sample solutions on a line 1.5 centimeters from the base of the plate and at intervals of not less than 2.0 centimeters. All solutions must be spotted within 10 minutes of preparation. Place spotted plate in a desiccator until solvent has evaporated from spots. Pour developing solvent into the glass trough. Place the plate into the glass trough at the bottom of the chromatography tank. Cover the tank. Allow the solvent to reach the 15-centimeter scored mark, remove the plate from the tank and dry with a current of warm air until there is no detectable solvent odor. Apply the ninhydrin spray solution to the plate—do not saturate—and place immediately into an oven maintained at 110° C for 15 minutes.

(e) *Evaluation.* Measure the distance the solvent front traveled from the starting line and the distance the spots are from the starting line. Calculate the $R_f$ value by dividing the latter by the former. Amoxicillin has an $R_f$ value of about 0.53. The sample and standard should have spots of corresponding $R_f$ values.

## PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. By adding a new § 440.3 to Subpart A to read as follows:

**§ 440.3 Amoxicillin trihydrate.**

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate is the trihydrate form of D(-) α-amino-*p*-hydroxybenzyl penicillin. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms and not more than 1,050 micrograms of amoxicillin per milligram on an anhydrous basis.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 11.5 percent and not more than 14.5 percent.

(iv) Its pH in an aqueous solution containing 2 milligrams per milliliter is not less than 3.5 and not more than 6.0.

(v) Its amoxicillin content is not less than 90 percent on an anhydrous basis.

(vi) The acid-base titration concordance is such that the difference between the percent amoxicillin content when determined by nonaqueous acid titration and by nonaqueous base titration is not more than 6. The potency acid titration concordance is such that the difference between the potency value divided by 10 and the percent amoxicillin content of the sample determined by the nonaqueous acid titration is not more than 6. The potency-base titration concordance is such that the difference between the potency value divided by 10 and the percent amoxicillin content of the sample determined by the nonaqueous base titration is not more than 6.

(vii) It is crystalline.

(viii) It gives a positive identity test for amoxicillin trihydrate.

(2) *Labeling.* In addition to the labeling requirements of § 432.5 of this chapter, each package shall bear on its outside wrapper or container and the immediate container the following statement: "For use in the manufacture of nonparenteral drugs only".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(ii) Samples required: 12 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the iodmetric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient sterile distilled water to give a stock solution containing 1.0 milligram of amoxicillin per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of amoxicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 436.205 of this chapter.

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 2 milligrams per milliliter.

(5) *Amoxicillin content.* Proceed as directed in § 436.213 of this chapter, using both the titration procedures described in paragraph (e) (1) and (2) of that section. Calculate the percent amoxicillin content as follows:

(i) *Acid titration.*

$$\text{Percent amoxicillin content} = \frac{(A-B)\ (\text{normality of lithium methoxide reagent})\ (365.4)\ (100)\ (100)}{(\text{weight of sample in milligrams})\ (100-m)}$$

where:
A = Milliliters of lithium methoxide reagent used in titrating the sample.
B = Milliliters of lithium methoxide reagent used in titrating the blank.
$m$ = Percent moisture content of the sample.

$$\text{Difference} = \frac{\text{Potency in micrograms per milligram}}{10} - \text{percent amoxicillin content.}$$

(ii) *Base titration.*

$$\text{Percent amoxicillin content} = \frac{(A-B)\ (\text{normality of perchloric acid reagent})\ (365.4)\ (100)\ (100)}{(\text{weight of sample in milligrams})\ (100-m)}$$

where:
A = Milliliters of perchloric acid reagent used in titrating the sample.
B = Milliliters of perchloric acid reagent used in titrating the blank.
$m$ = Percent moisture content of the sample.

$$\text{Difference} = \frac{\text{Potency in micrograms per milligram}}{10} - \text{percent amoxicillin content.}$$

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

(7) *Identity.* Proceed as directed in § 436.211 of this chapter, using a 0.5 percent potassium bromide disc prepared as described in paragraph (b) (1) of that section.

b. By adding new §§ 440.103, 440.103a, and 440.103b to Subpart B, to read as follows:

**§ 440.103 Amoxicillin oral dosage forms.**

**§ 440.103a Amoxicillin trihydrate capsules.**

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate capsules are composed of amoxicillin trihydrate with or without one or more suitable and harmless lubricants, diluents, and drying agents, enclosed in a gelatin capsule. Each capsule contains amoxicillin trihydrate equivalent to 250 milligrams or 500 milligrams of amoxicillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of amoxicillin that it is represented to contain. Its moisture content is not more than 14.5 percent. It passes the identity test. The amoxicillin trihydrate used conforms to the standards prescribed by § 440.3(a) (1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled "amoxicillin capsules".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, and identity.

(ii) Samples required:

(*a*) The amoxicillin trihydrate used in making the batch: 12 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed glass blender jar containing sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram of amoxicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Place the contents of a representative number of capsules into a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample solution as follows: Dissolve an accurately weighed portion of the amoxicillin capsule contents in 0.1*N* hydrochloric acid to give a solution containing 4 milligrams of amoxicillin per milliliter.

**§ 440.103b Amoxicillin trihydrate for oral suspension.**

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amoxicillin trihydrate for oral suspension is a mixture of amoxicillin trihydrate with one or more suitable and harmless colorings, flavorings, buffers, sweetening ingredients, preservatives, stabilizers, and suspending agents. When reconstituted as directed in the labeling, it contains amoxicillin trihydrate equivalent to either 25 or 50 milligrams of amoxicillin per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of amoxicillin that it is represented to contain. Its moisture content is not more than 3.0 percent. Its pH, when reconstituted as directed in the labeling, is not less than 5.0 and not more than 7.5. It passes the identity test. The amoxicillin trihydrate used conforms to the standards prescribed by § 440.3(a) (1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled "amoxicillin for oral suspension".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amoxicillin trihydrate used in making the batch for potency, safety, moisture, pH, amoxicillin content, concordance, crystallinity, and identity.

(*b*) The batch for potency, moisture, pH, and identity.

(ii) Samples required:

(*a*) The amoxicillin trihydrate used in making the batch: 12 packages, each

containing approximately 300 milligrams.

(b) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Assay for potency by either of the following methods; however, the results obtained from the iodometric assay shall be conclusive:

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured representative portion of the sample into a suitable volumetric flask and dilute to volume with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Mix well. Further dilute an aliquot with solution 3 to the reference concentration of 0.1 microgram of amoxicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 436.204 of this chapter, preparing the sample as follows: Reconstitute the drug as directed in the labeling. Place an accurately measured aliquot (usually a single dose) into an appropriately sized volumetric flask and dilute to volume with 1 percent potassium phosphate buffer, pH 6.0 (solution 1). Mix well. Further dilute with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the suspension reconstituted as directed in the labeling.

(4) *Identity.* Proceed as directed in § 436.311 of this chapter, preparing the sample solution as follows: Place a 2-gram weighed portion of the sample into a 50-milliliter volumetric flask. Dilute to volume with 0.1*N* hydrochloric acid and shake for 5 minutes.

Since the conditions prerequisite for providing the certification of subject antibiotic have been complied with and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

*Effective date.* This order shall be effective September 23, 1974.

(Sec. 507, 59 Stat. 463; 21 U.S.C. 357)

Dated: September 16, 1974.

MARY A. MCENIRY,
*Assistant to the Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.74-21842 Filed 9-20-74;8:45 am]

## Title 24—Housing and Urban Development

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

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI363]

### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | State map repository | Local map repository |
|---|---|---|---|---|---|---|
| • | • | • | • | • | • | • |
| Delaware | Sussex | Milton, town of | Sept. 17, 1974, emergency | | | |
| Louisiana | St. Tammany Parish. | Madisonville, town of | do | | | |
| Missouri | St. Louis | Moline Acres, city of | do | June 14, 1974 | | |
| Montana | Silver Bow | Butte, city of | do | do | | |
| Nebraska | Washington | Blair, city of | do | June 21, 1974 | | |
| Pennsylvania | Franklin | Hamilton, township of | do | | | |
| Utah | Grand | Moab, city of | do | June 21, 1974 | | |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 9, 1974.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.74-21858 Filed 9-20-74;8:45 am]

[Docket No. FI365]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

| State | County | Location | Effective date of authorization of sale of flood insurance for area | Hazard area identified | State map repository | Local map repository |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| California | Marin | Ross, town of | Sept. 18, 1974, emergency | Mar. 29, 1974 | | |
| Illinois | Cook | Northfield, village of | do | do | | |
| Kansas | Marion | Peabody, city of | do | June 19, 1974 | | |
| Minnesota | Wabasha | Hammond, city of | do | Aug. 2, 1974 | | |
| Mississippi | Forrest and Lamar. | Hattiesburg, city of | April 3, 1970. reg.; January 15, 1973. susp.; September 12, 1974. rein. | April 3, 1970 | | |
| Nebraska | Scotts Bluff | Gering, city of | Sept. 18, 1974, emergency | | | |
| New Jersey | Hunterdon | Califon, borough of | do | Sept. 13, 1974 | | |
| New York | Oneida | Deerfild, town of | do | Aug. 2, 1974 | | |
| Oregon | Jackson | Central Point, city of | do | June 21, 1974 | | |
| Pennsylvania | Montgomery | Norristown, borough of | July 9, 1971, emerg.; December 22, 1972, reg.; October 30, 1974, susp. | Dec. 22, 1972 | | |
| Wisconsin | Ozaukee | Cedarburg, city of | Sept. 18, 1974, emergency | Dec. 28, 1973 | | |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 11, 1974.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.74-21860 Filed 9-20-74;8:45 am]

## Title 32A—National Defense, Appendix

## CHAPTER I—OFFICE OF PREPAREDNESS, GENERAL SERVICES ADMINISTRATION

### Revocation of Miscellaneous Orders and Regulations and Retitling of Chapter

Reorganization Plan No. 1 of 1973 abolished the Office of Emergency Preparedness and transferred to the President all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness after the effective date of Reorganization Plan No. 1 of 1958. Executive Order 11725 of June 27, 1973 (38 FR 17175), transferred to the Administrator of General Services all authority vested in the Director of the Office of Emergency Preparedness a sof June 30, 1973, by Executive order, proclamation, or other directive issued by or on behalf of the President or otherwise, other than certain authority relating to disaster relief and the authority to conduct import investigations under section 232 of the Trade Expansion Act of 1962. The Administrator has established the Office of Preparedness within the General Services Administration to perform these functions. To reflect these changes, Chapter I of Title 32A is being retitled.

By authority of Executive Orders 10480 and 11725, certificates of necessity and payment certificates may be issued pursuant to subsections (e) and (g), respectively, of section 168 of the Internal Revenue Code of 1954. The authority to issue certificates of necessity under subsection (e) was terminated as of December 31, 1959, by section 4(c) of Pub. L. 85-165 (71 Stat. 414). Since the tax amortization allowed on the basis of certificates of necessity was for a period of 5 years, the orders and regulations listed nder 2b, 2c, and 2e below are no longer needed and therefore they are being revoked. The orders and regulations listed below under 2a and 2f are being revoked because they are no longer needed to carry out the provisions of the abovecited Executive orders relative to issuance of payment certificates under subsection (g).

GAO I–2 and ODM Reg. 3, listed below nnder 2d and 2g, are being revoked because they are no longer needed to carry out the provisions of section 2 of Executive Order 10494 (18 FR 6585, October 14, 1953) which provides for the orderly conclusion of administrative proceedings under Title IV of the Defense Production Act of 1950, as amended. Title IV was terminated as of April 30, 1953, by section 121(b) of the Defense Production Act Amendments of 1952 (66 Stat. 306).

Industry representatives were not consulted in the formulation of this issuance because the special circumstances pertaining to the issuance have rendered such consultation impracticable.

1. Chapter I of Title 32A is retitled to read as set forth above.

2. The following orders and regulations are revoked:

(a) Defense Mobilization Order I–11, Delegation of Authority to Issue Payment Certificates under section 168(g) of the Internal Revenue Code of 1954 (19 FR 6067, September 21, 1954).

(b) Defense Mobilization Order III–1, Policy Directive Governing Issuance of Tax Amortization Certificates under section 124A of the Internal Revenue Code, and Defining the Extent to Which Accelerated Amortization can be Allowed as a Cost in Negotiated Contract Pricing (16 FR 8098, August 15, 1951, as amended by Amendment 1, 17 FR 6657, July 19, 1952, and Amendment 2, 19 FR 2898, May 19, 1954, redesignated at 18 FR 6737, October 23, 1953).

(c) Defense Mobilization Order III–1, Supp. 1, Policy for the Establishment of Expansion Goals for Tax Amortization (20 FR 7369, October 4, 1955).

(d) GAO I–2, Administrative Proceedings under Title IV of the Defense Production Act of 1950, as amended (18 FR 6966, November 4, 1953).

(e) OCDM Reg. 1B, Issuance of Necessity Certificates under section 168 of the Internal Revenue Code of 1954 (24 FR 2491, March 31, 1959).

(f) ODM Reg. 2, Providing for the Issuance of Payment Certificates under section 124A(G) of the Internal Revenue Code (19 FR 5814, September 9, 1954).

(g) ODM Reg. 3, Preservation of Wage and Salary Records under Defense Production Act (21 FR 2940, May 3, 1956).

(Executive Order No. 10480 of August 14, 1953, as amended; and Executive Order No. 11725 of June 27, 1973)

*Effective date.* This regulation is effective September 23, 1974.

Dated: September 13, 1974.

DWIGHT A. INK,
*Acting Administrator of General Services.*

[FR Doc.74-21940 Filed 9-20-74;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER C—AIDS TO NAVIGATION

[CGD 74-130]

### PART 74—CHARGES FOR COAST GUARD AIDS TO NAVIGATION WORK

### Buoy and Vessel Use Costs

The purpose of these amendments to the aids to navigation regulations is to update the table contained in 33 CFR Subpart 74.20 so that it reflects current costs for the establishment, maintenance, repair, replacement, or removal of an aid to navigation.

14 U.S.C. 86, as delegated to the Coast Guard in 49 CFR 1.46(b), provides that the Coast Guard may mark for the protection of navigation any sunken vessel or other similar obstruction existing on any navigable waters of the United States, in such manner and for so long as in its judgment, the needs of maritime navigation require. This law makes the owner of the obstruction liable to the United States for the cost of such marking until the obstruction is removed, or its abandonment is legally established, or until an earlier time as the Coast Guard may establish.

14 U.S.C. 642 requires that the Coast Guard be reimbursed for the damage or destruction of an aid to navigation or other property belonging to the Coast Guard. This law requires that the reimbursement include the cost of repair or replacement of the damaged or destroyed property.

In the July 11, 1959 issue of the FEDERAL REGISTER (24 FR 5608), the Coast Guard promulgated a table containing the costs for the preparation of an aid to navigation, the servicing of an aid on a monthly basis, and the use of a vessel in placing or retrieving the aid. This table was updated in the February 4, 1965 issue of the FEDERAL REGISTER (30 FR 1193). Since that time, the table has not been changed to reflect current costs.

The amendments in this document reflect current Coast Guard costs. Two tables are included. Table 1 contains the buoy costs which include costs for preparing the buoy, servicing an aid (based on monthly use), and accessories. The accessories are added to the buoy if they are needed.

Table 2 contains the vessel use cost. It includes costs for personnel, fuel, and maintenance, on an hourly basis.

Since the amendments in this document relate to general statements of policy, they are exempted from notice of proposed rule making, and they may be made effective in less than 30 days.

In consideration of the foregoing, Subpart 74.20 of Title 33, Code of Federal Regulations is revised to read as follows:

### Subpart 74.20—Aids to Navigation Costs

**§ 74.20 Buoy and vessel use costs.**

The cost to establish, maintain, repair, replace, or remove an aid to navigation in accordance with the requirements of this part include the buoy costs contained in Table 1 and the vessel use costs contained in Table 2, as appropriate.

TABLE 1—BUOY COSTS

[In dollars]

| Buoy type | Preparation[1] | Servicing[2] | Accessory[3] | | |
|---|---|---|---|---|---|
| | | | Bell | Gong | Whistle |
| 9 ft., lighted | 651 | 84 | 12 | 13 | 7 |
| 9 ft., unlighted | 391 | 32 | 7 | 7 | NA |
| 8 ft. | 520 | 58 | 6 | 7 | 10 |
| 7 ft. | 435 | 40 | NA | NA | NA |
| 6 ft. | 406 | 46 | 5 | NA | NA |
| 5 ft. | 228 | 30 | NA | NA | NA |
| 3½ ft. | 121 | 27 | NA | NA | NA |
| Can or nun, 1st class | 265 | 25 | NA | NA | NA |
| Can or nun, 2nd class | 156 | 13 | NA | NA | NA |
| Can or nun, 3rd class | 92 | 11 | NA | NA | NA |
| Can or nun, 4th class | 82 | 16 | NA | NA | NA |
| Can or nun, 5th class | 29 | 7 | NA | NA | NA |
| Can or nun, 6th class | 26 | 7 | NA | NA | NA |

[1] Includes preparing, adapting, and placing a replacement aid, and preparing, adapting, placing, retrieving, and overhauling after retrieving a temporary aid, but does not include vessel use costs (see table 2 of this subpart).
[2] Based on monthly use. A month is 16 or more days use.
[3] Added costs if assembled on the buoy.

NOTE.—NA indicates not applicable.

TABLE 2.—VESSEL USE COSTS PER HOUR (IN DOLLARS)

| Vessel class | Personnel (a) | Fuel (b) | Maintenance (c) | Total (a)+(b)+(c) |
|---|---|---|---|---|
| Seagoing buoy tender (WLB) | 168 | 10 | 77 | 255 |
| Coastal buoy tender (WLM) | 99 | 8 | 55 | 162 |
| Inland buoy tender (WLI) | 39 | 4 | 39 | 82 |
| River buoy tender (WLR) | 42 | 4 | 13 | 59 |
| Inland, construction buoy tender (WLIC) | 30 | 4 | 28 | 62 |
| 36 ft., 44 ft., or 52 ft. motor lifeboat (MLB) | 11 | 1 | 27 | 39 |
| 40 ft., 45 ft., or 46 ft. buoy boat (BU) | 10 | 1 | 15 | 26 |
| 40 ft. large utility boat (UTB) | 10 | 2 | 22 | 34 |

(14 U.S.C. 633; Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

*Effective date.* These amendments are effective on September 20, 1974.

Dated: September 13, 1974.

E. L. PERRY,
*Vice Admiral, U.S. Coast Guard,*
*Acting Commandant.*

[FR Doc.74-21875 Filed 9-20-74;8:45 am]

## Title 38—Pensions, Bonuses, and Veterans' Relief

### CHAPTER I—VETERANS ADMINISTRATION

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

CERTIFICATION AS TO EDUCATIONAL NEEDS

On page 26174 of the FEDERAL REGISTER of July 17, 1974, there was published a notice of proposed regulatory development to issue changes in §§ 21.4235(e) and 21.4237(e), (f) and (g) to provide that Veterans Administration counselors may certify as to the educational needs for veterans and eligible spouses for training under the special assistance programs for the educationally disadvantaged. In addition minor editorial changes have been made to §§ 21.4234, 21.4235 and 21.4237 to reflect agency policy of using precise terms denoting gender. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received. The proposed regulations are adopted subject to the following: In § 21.4235(a)(1), line 3, the reference "§ 3.1040(e)(3)" is corrected to read "§ 21.1040(e)(3)."

*Effective date.* Sections 21.4235(e) and 21.4237(e), (f), and (g) are effective September 17, 1974.

Approved: September 17, 1974.

[SEAL] R. L. ROUDEBUSH,
*Acting Administrator.*

1. In § 21.4234, paragraphs (d) and (e)(3) are revised to read as follows:

**§ 21.4234 Change of program.**

* * * * *

(d) *Chapter 35; wife, husband, widow, widower.* The eligible wife, husband, widow, or widower may make one optional change of program if the previous course was not interrupted or discontinued due to her or his own misconduct, neglect or lack of application. A second change or an initial change after interruption or discontinuance due to her or his own misconduct, neglect or lack of application may be approved if it is found that:

(1) The program of education which the eligible wife, husband, widow or widower proposes to pursue is suitable to her or his aptitudes, interests, and abilities; and

(2) In any instance where the eligible wife, husband, widow, or widower has interrupted, or failed to progress in, her

or his program due to her or his own misconduct, neglect or lack of application, there exists a reasonable likelihood with respect to the program which she or he proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(e) *Adjustments; transfers.* A change in courses or places of training will not be considered a change of objective in the following instances:

* * * * *

(3) Revision of a program which does not involve a change of objective or material loss of credit nor loss of time originally planned for completion of the veteran's or eligible person's program. For example, an eligible person enrolled for a bachelor of science degree may show a professional objective such as chemist, teacher or engineer. His or her objective for purposes of this paragraph shall be considered to be "bachelor degree" and any change of courses will be considered only an adjustment in the program, not a change, so long as the subjects he or she pursues lead to the bachelor degree and there is no extension of time in the attaining of that degree.

2. § 21.4235, paragraphs (a) (1) and (3), (e) and (f) are revised to read as follows:

**§ 21.4235 Predischarge Education Program (PREP) and Special Assistance for Educationally Disadvantaged Veterans; chapter 34.**

(a) *Enrollment.* Enrollment of a veteran may be approved in any elementary, secondary, preparatory, refresher, remedial, deficiency, or special educational assistance course not otherwise prohibited, regardless of his or her previous educational experience;

(1) While he or she is on active duty and meets the eligibility requirements of § 21.1040(e)(3), if such course or courses (but not including correspondence courses) are required to receive a secondary school diploma, or if such course or courses (including individual unit subjects within a General Education Development (G.E.D.) examination program) are required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment; or

* * * * *

(3) After discharge or release from active duty, if such course or courses are necessary to the pursuit of a program of education for which he or she would be eligible but for that lack.

* * * * *

(e) *Certifications.* Certifications as to the serviceman's or servicewoman's need for deficiency and/or remedial courses in basic English language skills and mathematic skills under paragraph (a)(1) of this section may be made by either the service education officer, by a Veterans Administration counselor, or by the educational institution administering the course or to which the student has made application for admission. Certifications as to the veteran's need for deficiency and/or remedial courses in basic English language skills under paragraph (a)(2) and (3) of this section may be made by a Veterans Administration counselor or by the educational institution administering the course or to which the student has made application for admission. Certifications as to need for other refresher, remedial and/or deficiency course requirements under paragraph (a)(1), (2) and (3) of this section are to be made by the educational institution administering the course which the student is preparing to enter, or to which the student has made application for admission.

(f) *Basic skills.* Basic English language courses or mathematic courses will be authorized when it is found by accepted testing methods that the serviceman, servicewoman, or veteran is lacking in basic reading, writing, speaking or essential mathematics.

* * * * *

3. In § 21.4237, the headnote, the introductory portion of paragraph (a) preceding subparagraph (1), and paragraph (d) are revised and paragraphs (e), (f), and (g) are added so that the amended and added material reads as follows:

**§ 21.4237 Special Assistance for the Educationally Disadvantaged; chapter 35 wife, husband, widow, or widower.**

(a) *Enrollment.* Enrollment of an eligible wife, husband, widow, or widower may be approved in an appropriate course or courses at the secondary school level in a State if the wife, husband, widow, or widower:

* * * * *

(d) *Entitlement charge.* No charge will be made against the period of the entitlement of the wife, husband, widow, or widower because of enrollment in courses under the provisions of this section. (38 U.S.C. 1733)

(e) *Certifications.* Certifications as to the need of the eligible spouse for deficiency and/or remedial courses in basic English language skills and mathematic skills under paragraph (a) of this section may be made by either the Veterans Administration counselor or by the educational institution administering the course, or to which the student has made application for admission. Certification as to the need for other refresher, remedial and/or deficiency course requirements under paragraph (a) of this section are to be made by the educational institution administering the course which the student is preparing to enter, or to which the student has made application for admission.

(f) *Basic skills.* Basic English language courses or mathematic courses will be authorized when it is found by accepted testing methods that the eligible spouse is lacking in basic reading, writing, speaking or essential mathematics.

(g) *Deficiency course.* A deficiency course is any secondary level course or subject not previously completed satisfactorily which is specifically required for pursuit of a post-secondary program of education.

Approved: July 10, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUDEBUSH,
*Deputy Administrator.*

[FR Doc.74-21985 Filed 9-20-74;8:45 am]

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**Title 45—Public Welfare**

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

**PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS**

**Incapacity in AFDC**

Notice of proposed regulations for the programs administered under Title IV-A of the Social Security Act was published in the FEDERAL REGISTER on February 1, 1974 (39 FR 4115). The proposal would establish a uniform Federal definition of incapacity of a parent.

Three no comment responses from ACIR and 17 letters from 14 State and local welfare agencies and 3 organizations were received. Welfare agencies objected to or criticized:

1. The requirement that there be a causal relationship between the parent's incapacity and the child's deprivation of support or care. The law says "deprived * * * by reason of * * *", thus clearly establishing that there must be a casual relationship. The regulation previously provided that no affirmative showing of a causal relationship is required. The deletion of this language is in no way intended to change existing State procedures, regarding the burden of establishing eligibility, either upon initial determination or at a hearing.

2. The requirement that the incapacity "be expected to last at least 30 days." (The majority recommended elimination; the minority suggested increase to 60 or 90 days.) The 30 days is not intended to be a "waiting period". Expected duration is pertinent to "causal relationship" and to "substantially." A condition lasting only a few days would not usually result in substantial deprivation.

3. The definition, which they consider restrictive, or punitive, or unclear. In a regulation of this nature, some judgment is necessary. The vagueness of the current regulations resulted in a wide variation of State interpretations. Since "substantially" carries a generally accepted legal connotation, the past extremes of interpretation should be minimized. The department recognizes that where a subjective determination is necessary, some variation must be accepted.

The principal recommendations of the respondents were:

1. Modify the requirement for "competent medical testimony" so that States can make use of other professionals (such as psychologists and optometrists) who are qualified to give testimony on certain conditions. An appropriate change has been made. (§ 233.90(c)(1)(iv))

2. Modify the regulation so that States may accept evidence of eligibility for

OASDI disability or SSI incapacity benefits as proof of incapacity for AFDC purposes. The regulation incorporates this suggestion (§ 233.90(c)(1)(iv)).

3. Permit States to continue AFDC until an incapacitated parent receiving vocational rehabilitation services is fully rehabilitated. 45 CFR 233.10(a)(4) provides for Federal sharing in AFDC payments continued for a reasonable period, while the effects of the parent's incapacity are being overcome.

4. Eliminate section 233.90(b)(6). This section is necessary to establish a uniform Federal definition, since the definition itself is contained in the paragraph on Federal financial participation.

5. Strengthen the regulation by requiring that the incapacitated parent be required to accept medical treatment likely to enable him or her to work or to care for the children. This would be consistent with current AFDC requirement for registration in the work incentive program and the SSI requirement for acceptance of vocational rehabilitation services by incapacitated beneficiaries. The State may administratively impose such a requirement.

The proposed regulations, with the changes indicated above, are hereby adopted.

Section 233.90, Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by adding a new subdivision (6) to paragraph (b) and revising paragraphs (c)(1)(i) and (iv). As amended, § 233.90(b) and (c) read as set forth below:

**§ 233.90 Factors specific to AFDC.**

* * * * *

(b) *Conditions for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404(b) of the Social Security Act.)

(2) An otherwise eligible child who is under the age of 18 years may not be denied AFDC, regardless of whether he attends school or makes satisfactory grades.

(3) If a State elects to include in its AFDC program children 18 and over, it must include all children 18 years of age and under 21 who are students regularly attending a school, college, or university, or a course of vocational or technical training designed to fit them for gainful employment.

(4) A child may not be denied AFDC either initially or subsequently because a parent or caretaker relative fails to assist:

(i) In the establishment of paternity of a child born out of wedlock; or

(ii) In seeking support from a person having a legal duty to support the child; But neither this nor any other provision of these regulations should be construed to require that provision be made by a State in its AFDC program for the maintenance of a parent or caretaker who fails to provide such assistance and AFDC may be denied with respect to such parent or caretaker.

(5) [Reserved]

(6) An otherwise eligible child may not be denied AFDC if a parent is mentally or physically incapacitated as defined in paragraph (c)(1)(iv) of this section.

(c) *Federal financial participation.* (1) Federal financial participation under title IV–A of the Social Security Act in payments with respect to a "dependent child", as defined in section 406(a) of the Act, is available within the following interpretations:

(i) *Needy child deprived by reason of.* The phrase "needy child * * * deprived * * * by reason of" requires that both need and deprivation of parental support or care exist in the individual case. The phrase encompasses the situation of any child who is in need and otherwise eligible, and whose parent—father or mother—either has died, has a physical or mental incapacity, or is continually absent from the home. This interpretation is equally applicable whether the parent was the chief bread winner or devoted himself or herself primarily to the care of the child, and whether or not the parents were married to each other. The determination whether a child has been deprived of parental support or care is made in relation to the child's natural parent or, as appropriate, the adoptive parent or stepparent described in paragraph (a) of this section.

(ii) *Death of a parent.* If either parent of a child is deceased, the child is deprived of parental support or care, and may, if he is in need and otherwise eligible, be included within the scope of the program.

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he may have left only recently or some time previously.

(iv) *"Physical or mental incapacity".* "Physical or mental incapacity" of a parent shall be deemed to exist when one parent has a physical or mental defect, illness, or impairment. The incapacity shall be supported by competent medical testimony and must be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child and be expected to last for a period of at least 30 days. In making the determination of ability to support, the agency shall take into account the limited employment opportunities of handicapped individuals.

A finding of eligibility for OASDI or SSI benefits, based on disability or blindness is acceptable proof of incapacity for AFDC purposes.

(v) *"Living with [a specified relative] in a place of residence maintained * * * as his * * * own home".* (A) A child may be considered to meet the requirement of living with one of the relatives specified in the Act if his home is with a parent or a person in one of the following groups:

(*1*) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great.

(2) Stepfather, stepmother, stepbrother, and stepsister.

(3) Persons who legally adopt a child or his parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law.

(*4*) Spouses of any persons named in the above groups even after the marriage is terminated by death or divorce.

(B) A home is the family setting maintained or in process of being established, as evidenced by assumption and continuation of responsibility for day to day care of the child by the relative with whom the child is living. A home exists so long as the relative exercises responsibility for the care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting. Within this interpretation, the child is considered to be "living with" his relative even though

(*1*) He is under the jurisdiction of the court (e.g., receiving probation services or protective supervision); or

(2) Legal custody is held by an agency that does not have physical possession of the child.

(vi) *"Student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."* A child may be considered a student regularly attending a school or a training course:

(A) If he is enrolled in and physically attending a full-time (as certified by the school or institute attended) program of study or training leading to a certificate, diploma or degree; or

(B) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is regularly employed in or available for and actively seeking part-time employment; or

(C) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is precluded from full-time attendance or

part-time employment because of a verified physical handicap.

Under this interpretation:

(D) Full-time and half-time attendance are defined, as set forth in Veterans Administration requirements:

(*1*) In a trade or technical school, in a program involving shop practice, full-time is 30 clock hours per week and half-time is 15 clock hours; in a program without shop practice, full-time is 25 clock hours and half-time is 12 clock hours;

(*2*) In a college or university, full-time is 12 semester or quarter hours and half-time is 8 semester or quarter hours;

(*3*) In a secondary school, full-time is 25 clock hours per week or 4 Carnegie units per year and half-time is 12 clock hours or 2 Carnegie units;

(*4*) In a secondary education program of cooperative training or in apprenticeship training, full-time attendance is as defined by State regulation or policy; and

(E) A child shall be considered in regular attendance in months in which he is not attending because of official school or training program vacation, illness, convalescence, or family emergency, and for the month in which he completes or discontinues his school or training program.

(2) Federal financial participation is available in:

(i) Initial payments made on behalf of a child who goes to live with a relative specified in section 406(a)(1) of the Social Security Act within 30 days of the receipt of the first payment, provided payments are not made for a concurrent period for the same child in the home of another relative or as AFDC–FC;

(ii) Payments with respect to an unborn child when the fact of pregnancy has been determined by medical diagnosis;

(iii) Payments made for the entire month in the course of which a child leaves the home of a specified relative, provided payments are not made for a concurrent period for the same child in the home of another relative or as AFDC–FC; and

(iv) Payments made to persons acting for relatives specified in section 406(a)(1) of the Act in emergency situations that deprive the child of the care of the relative through whom he has been receiving aid, for a temporary period necessary to make and carry out plans for the child's continuing care and support.

(3) Federal financial participation (at the 50 percent rate) is available in any expenses incurred in establishing eligibility for AFDC, including expenses incident to obtaining necessary information to determine the existence of incapacity of a parent or pregnancy of a mother.

*Effective date.* The regulation in this section shall be effective on November 22, 1974, or earlier at State option.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))
(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance-Maintenance Assistance (State Aid).)

Dated: May 15, 1974.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved: September 18, 1974.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

[FR Doc.74–21992 Filed 9–20–74;8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 35949]

### EQUITY METHOD OF ACCOUNTING FOR CERTAIN LONG-TERM INVESTMENTS IN COMMON STOCKS

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 3rd day of September 1974.

Consideration having been given to the matters [1] and things involved in this proceeding, and the said Commission, on the date hereof, having made and filed a report herein containing its findings and conclusions, which report is hereby made a part hereof:

*It is ordered,* That Parts 1201 through 1210 of Title 49 of the Code of Federal Regulations be, and they are hereby, amended to read as set forth below.

*It is further ordered,* That the prescribed amendments shall be effective January 1, 1974, and reflected in the annual reports to this Commission for the accounting year ending December 1974.

*It is further ordered,* That the initial adjustment to convert to the equity method shall be reflected in the financial statements as adjustments to the investment and retained income accounts.

*And it is further ordered,* That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 12, 20, 304, 913, 1012.)

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[1] These amendments were proposed on April 9, 1974 at 39 FR 12876.

### PART 1201—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

### REGULATIONS PRESCRIBED

Under "(ii) Definitions", add the following:

* * * * *

22. (a) "Investor" means a business entity that holds an investment in voting stock of another company.

(b) "Investee" means a corporation that issued voting stock held by an investor.

(c) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group. Joint facilities for purposes of this system of accounts are not considered corporate joint ventures.

(d) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(e) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(f) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(g) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

### INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

Instruction "6–2 Recorded value of securities owned" is amended by designating the present paragraph as (a) and adding new paragraphs (b) and (c). As amended the instruction reads:

6–2 *Recorded value of securities owned.* (a) * * *

(b)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition 22(c)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition 22(b)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date

of acquisition (see definition 22(g)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (b)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) low.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (b)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 1-2(d)), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (b)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (b)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

(c) When securities with a fixed maturity date are purchased at a discount (i.e., when total cost including brokerage fees, taxes, commissions, etc., is less than par), such discounts may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which interest income is credited. No debits shall be made in respect to discounts upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity. When securities with a fixed maturity date are purchased at a premium (i.e., when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such premium may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same accounts in which the interest income is recorded.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

### INCOME ACCOUNTS

Section "599 Form of Income Statement" is amended as follows:

599 Form of Income Statement.

* * * * *

513 Dividend income (other than from affiliates)

* * * * *

519 * * *
Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total other income.

* * * * *

## PART 1202—UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC RAILWAYS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Balance Sheet," the following amendments are made:

Line item "05-7 Form of general balance sheet statements" is redesignated as line item 05-8 to read:

05-8 Form of general balance sheet statements.

After line item "05–6 Surplus" the following added:

05–7 Recorded value of securities owned.

DEFINITIONS

Section "00–2 Definitions" is amended by adding the following new definitions:

**00–2 Definitions.**

* * * * *

"Investor" means a business entity that holds an investment in voting stock of another company.

"Investee" means a corporation that issued voting stock held by an investor.

"Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

"Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

"Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

"Undistributed earnings of an investee" means net income less dividends declared whether received or not.

"Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

INCOME INSTRUCTIONS

Instruction "03–6 Form of income statement" is amended as follows:

**03–6 Form of income statement.**

* * * * *

206 Dividend income (other than from affiliates).

* * * * *

212 Miscellaneous income.
Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total nonoperating income.

* * * * *

GENERAL BALANCE SHEET

The number of instruction "05–7 Form of general balance sheet statements" is redesignated as instruction "05–8" to read:

**05–8 Form of general balance sheet statements.**

* * * * *

After the text of instruction "05–6 Surplus" the following new instruction number, title and text are added:

**05–7 Recorded value of securities owned.**

(a) The investment in securities other than those issued or assumed by the accounting company shall be recorded at the money value, at the date of acquisition, of the consideration given therefor by the accounting company, but excluding amounts paid for accrued interest and accrued dividends. The accounting company shall write down the ledger value of any securities to the extent of impairment in their value or write off entirely if there is no reasonable prospect of realizing any value therefrom, but fluctuations in market value are not to be recorded. Adjustments in the ledger values of securities shall not be delayed beyond the year in which a loss is claimed for income tax purposes. The amount of the adjustment for loss in value may be recorded in the accounts by establishing a reserve for such loss through credits to account 406–1, "Reserve for adjustment in securities". Losses attributable to write downs or write offs shall be charged to account 225, "Miscellaneous debits", or to account 270, "Extraordinary items", as appropriate.

(b)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition) and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (b)(3) below); and other adjustments for disposition or write down of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (b)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 01–6), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared

when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (b)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (b)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

(c) When securities with a fixed maturity date are purchased at a discount (i.e., when total cost including brokerage fees, taxes, commissions, etc., is less than par), such discounts may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which interest income is credited. No debits shall be made in respect to discounts upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity. When securities with a fixed maturity date are purchased at a premium (i.e., when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such premium may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same accounts in which the interest income is recorded.

NOTE A: Cost (for purposes of this instruction) is cash or fair market value of the consideration given at the time of acquisition but excluding amounts of accrued interest and accrued dividends.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

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## PART 1203—UNIFORM SYSTEM OF ACCOUNTS FOR EXPRESS COMPANIES

### DEFINITIONS

Under "(i) Definitions" add the following new definitions:

* * * * *

42. (a) "Investor" means a business entity that holds an investment in voting stock of another company.

(b) "Investee" means a corporation that issued voting stock held by an investor.

(c) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(d) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(e) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(f) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(g) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

### INSTRUCTIONS FOR BALANCE SHEET ACCOUNTS

The text of instruction "2-2 Investments—special funds" is revised to read:

**2-2 Investments—special funds.**

* * * * *

(c)(1) For financial statement purposes the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition 42(c)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition 42(b)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition 42(g)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (c)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (c)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 1-1), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (c)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (c)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

(c) When securities with a fixed maturity date are purchased at a discount (i.e., when total cost including brokerage fees, taxes, commissions, etc., is less than par), such discounts may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which interest income is credited. No debits shall be made in respect to discounts upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity. When securities with a fixed maturity date are purchased at a premium (i.e., when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such premium may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same accounts in which the interest income is recorded.

NOTE A: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

## INCOME ACCOUNTS

Section "998 Form of income statement" is amended as follows:

**998 Form of income statement.**

* * * * *

**630 Dividend Income (other than from affiliates).**
**640 * * ***
**Income From Affiliated Companies.**
**Dividends.**
**Equity in Undistributed Earnings (Losses).**
**Total Nonoperating Income.**

* * * * *

## PART 1204—UNIFORM SYSTEM OF ACCOUNTS FOR PIPELINE COMPANIES

### DEFINITIONS

The following new definitions are added:

* * * * *

31.(a) "Investor" means a business entity that holds an investment in voting stock of another company.

(b) "Investee" means a corporation that issued voting stock held by an investor.

(c) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(d) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(e) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(f) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(g) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily this is the date assets are received and other assets are given or securities issued.

## INSTRUCTIONS FOR BALANCE SHEET ACCOUNTS

Instruction "2–2 Investments and special funds" is revised to read:

**2–2 Investments and special funds.**

* * * * *

(c)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition 31(c)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition 31(b)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition 31(g)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (c)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisiton; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (c)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 1-6), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (c)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (c)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

NOTE A: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

Section 798 is revised as follows:

798 FORM OF INCOME STATEMENT

* * * * *

630 Interest and Dividend Income (dividends from other than affiliates).

* * * * *

660 * * *

Income from affiliated companies.

Dividends.

Equity in undistributed earnings (losses).

Total other income and deductions.

* * * * *

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## PART 1205—UNIFORM SYSTEM OF ACCOUNTS FOR REFRIGERATOR CAR LINES

### General Instructions

Instruction "2 Definitions" is amended by adding the following new definitions:

* * * * *

(aa)(1) "Investor" means a business entity that holds an investment in voting stock of another company.

(2) "Investee" means a corporation that issued voting stock held by an investor.

(3) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(4) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(5) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(6) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(7) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

### INCOME AND BALANCE SHEET ACCOUNTS INSTRUCTIONS

The text of instruction "37 Book value of securities owned" is revised to read:

* * * * *

(b)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition (aa)(3)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition (aa)(2)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition (aa)(7)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (b)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (b)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 3), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

e() Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (b)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (b)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

### Income Account Texts

Section "599 Form of income statement" is revised to read:

**599 Form of income statement.**

* * * * *

513 Dividend income (other than from affiliates)

* * * * *

519 * * *

Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total other income.

* * * * *

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## PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

LIST OF DEFINITIONS, INSTRUCTIONS, AND ACCOUNTS

Under "Definitions", after line item "1–40 Used" add:

1–42 Terminology relative to equity accounting.

Under "Balance Sheet Accounts" after line item "1650 Other investments and advances" add:

1675 Reserve for adjustment of investments in securities.

DEFINITIONS

The following new definitions are added:

* * * * *

**1–42 Terminology relative to equity accounting.**

(a) "Investor" means a business entity that holds an investment in voting stock of another company.

(b) "Investee" means a corporation that issued voting stock held by an investor.

(c) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(d) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(e) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(f) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(g) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

INSTRUCTIONS

Instruction "2–15 Book cost of securities owned" is revised to read:

**2–15 Book cost of securities owned.**

* * * * *

(f)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition 1–42(c)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition 1–42(b)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition 1–42(g)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (f)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (f)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 2–7), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (f)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (f)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports

filed with the Commission in accordance with generally accepted accounting principles.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

BALANCE SHEET ACCOUNTS

After the text of account "1650 Other investments and advances", the following new account number, title and text are added:

**1675 Reserve for adjustment of investments in securities.**

(a) This account shall be credited with amounts charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate, to provide a reserve for adjustments in the value of investment securities included in account 1600, Investments and Advances-Associated Companies, and account 1650, Other Investments and Advances, where there is a permanent impairment in the recorded values.

(b) If reserves are maintained for anticipated losses in specific securities, when such securities are disposed of, this account shall be charged to the extent of the credit balance applicable to the particular securities involved. The remainder, if any, shall be charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate.

(c) In case a general reserve for losses in unspecified security values is maintained, all such losses on disposition shall be charged to this account to the extent of the credit balance, and the remainder, if any, shall be charged to account 7500, Other Deductions, or account 9010, Extraordinary Items, as appropriate.

Section "2999 Form for balance sheet statement" is revised as follows:

**2999 Form of balance sheet statement.**

* * * * *

1650 * * *
Less: Reserve for adjustment of investments in securities * * *

* * * * *

INCOME ACCOUNTS

Section "9999 Form of income statement" is revised as follows:

**2999 For for balance sheet statement.**

* * * * *

6300 Dividend income (other than from affiliates).

* * * * *

6500 * * *
Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total other income.

* * * * *

## PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

### DEFINITIONS

The following new definitions are added:

* * * * *

40. (a) "Investor" means a business entity that holds an investment in voting stock of another company.

(b) "Investee" means a corporation that issued voting stock held by an investor.

(c) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(d) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(e) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(f) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(g) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

### CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

The text of instruction "18 Book cost of securities owned" is amended by adding the following:

**18 Book cost of securities owned.**

* * * * *

(c)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition 40(c)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition 40(b)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition 40(g)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (e)(3) below); and other adjustments for disposition or write-down of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (e)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 8), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment

and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (e)(1) of this instruction, the investment no longer qualifies for the the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (e)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

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## PART 1208—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" after line item "12 Accounting for the Investment Tax Credit," add:

13 Recorded value of securities owned.

GENERAL INSTRUCTIONS

Instruction "1 Definitions" is amended by adding the following new definitions:

1 **Definitions.**

* * * * *

(t) "Investor" means a business entity that holds an investment in voting stock of another company.

(u) "Investee" means a corporation that issued voting stock held by an investor.

(v) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(w) "Dividends," unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(x) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(y) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(z) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

After the text of instruction "12 Accounting for the investment tax credit" the following new instruction number, title and text are added:

13 **Recorded value of securities owned.**

(a) Securities of others acquired by the carrier shall be recorded in these accounts at cost, including brokerage and registration fees, stock transfer taxes, and similar expenses, at the time of acquisition. Cost does not include any amount paid for accrued interest or dividends.

(b)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition (v)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition (u)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition (z)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (b)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (b)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 11), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (b)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (b)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

(c) When securities with a fixed maturity date are purchased at a discount (i.e., when total cost including brokerage fees, taxes, commissions, etc., is less than par), such discounts may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which interest income is credited. No debits shall be made in respect to discounts upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity. When securities with a fixed maturity date are purchased at a premium (i.e., when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such premium may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same accounts in which the interest income is recorded.

(d) The accounting company shall write down the cost of any investment to the extent of impairment in values; however, mere fluctuations in market value shall not be recorded. Write downs for impairment shall not be delayed beyond the year in which a loss is claimed for income tax purposes. The loss may be recorded in the accounts by establishing a reserve for such loss through credits to account 329, "Reserve for revaluation of investments". Losses attributable to write downs or write offs shall be charged to account 979, "Miscellaneous deductions for income" or to account 990, "Extraordinary items (net)", as appropriate.

NOTE.—The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

INCOME ACCOUNTS

Section "2001 Income statement" is amended as follows:

**2001 Income statement.**

* * * * *

685 Dividend income (other than from affiliates).

* * * * *

691 * * *

Income from affiliated companies.

Dividends.

Equity in undistributed earnings (losses).

Total other income.

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## PART 1209—UNIFORM SYSTEM OF ACCOUNTS FOR INLAND AND COASTAL WATERWAYS CARRIERS

### General Instructions

Instruction "2 Definitions" is amended by adding the following new definitions:

**2 Definitions.**

* * * * *

(ss) "Investor" means a business enitty that holds an investment in voting stock of another company.

(tt) "Investee" means a corporation that issued voting stock held by an investor.

(uu) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(vv) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or other class of stock and does not include stock dividends or stock splits.

(ww) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(xx) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(yy) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

### Balance-Sheet Instructions

Instruction "23 Book cost of securities owned" is amended by adding the following:

23 **Book cost of securities owned.**

* * * * *

(e)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition (uu)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition (tt)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition (yy)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (e)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (e)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instruction 4), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investees stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (e)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (e)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

INCOME ACCOUNTS

Section "599 Form of income statement" is amended as follows:

599 **Form of income statement.**

* * * * *

503 Dividend income (other than from affiliates).

* * * * *

508 * * *
Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total other income.

* * * * *

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## PART 1210—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Instruction "2 Definitions" is amended by adding the following:

* * * * *

Under "General Balance Sheet Instructions", after line item "27 Contingent assets and liabilities" add:

28 Recorded value of securities owned.

Under "General Balance Sheet Accounts", after line item "131 Other investments" add:

132 Reserve for adjustment of investments in securities.

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following after definition (n) "Premium":

(y) "Investor" means a business entity that issued voting stock held by an investor.

(z) "Investee" means a corporation that issued voting stock held by an investor.

(aa) "Corporate joint venture" is a company owned and operated by a small group of businesses as a separate and specific business or project for the mutual benefit of the members of the group.

(bb) "Dividends", unless otherwise specified, means dividends paid or payable in cash, other assets, or another class of stock and does not include stock dividends or stock splits.

(cc) "Earnings or losses of an investee" and "financial position of an investee" refer to net income (or net loss) and financial position of an investee determined in accordance with generally accepted accounting principles.

(dd) "Undistributed earnings of an investee" means net income less dividends declared whether received or not.

(ee) "Date of acquisition" is the date on which the investor assumes the rights of ownership. Ordinarily, this is the date assets are received and other assets are given or securities issued.

GENERAL BALANCE SHEET INSTRUCTIONS

Instruction "28 Form of general balance sheet statement" is redesignated as instruction "29 Form of general balance sheet statement."

After the text of instruction "27 Contingent assets and liabilities", the following new instruction number, title and text are added:

28 Recorded value of securities owned.

(a) Securities of others acquired by the carrier shall be recorded in these accounts at the money value, at time of acquisition, of the consideration given therefor by the carrier, but excluding amounts paid for accrued interest and dividends.

(b)(1) *For financial statement purposes* the carrier shall follow the principles of equity accounting for (1) all investments in corporate joint ventures (see definition (aa)), and (2) all investments in voting stock of affiliated companies giving the carrier the ability to significantly influence the operating and financial policies of an investee (see definition (z)). For purposes of this instruction an investment of 20 percent or more of the outstanding voting stock of an investee will indicate the ability to exercise significant influence over an investee in the absence of evidence to the contrary.

(2) Since the equity method is not to be effected by entries in the books of accounts but is to apply only in financial reports to the Commission, the carrier shall establish worksheet or memorandum accounts. Three basic worksheet or memorandum accounts are needed:

(a) An investment account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition (see definition (ee)); (2) accumulated amortization of the difference between cost and net assets at date of acquisition (see (b)(3) below); and other adjustments for disposition or writedown of investments.

(b) An income account to include (1) the investor's share of the investee's undistributed profits or losses for each reporting period subsequent to acquisition of the investment except that in the year of acquisition such amount shall be determined from the date of acquisition; (2) amortization for the reporting period of the difference between cost and net assets at date of acquisition. This account shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) below.

(c) A retained income account to include (1) equity in the undistributed earnings or losses of the investee since the date of acquisition; (2) accumulated amortization of the difference between cost and net assets acquired at date of acquisition (see (b)(3) below).

(d) Other memorandum accounts will be needed for such adjustments as gains and losses on disposition of investments, recognition of impairments in value, the investor's share of extraordinary and prior period items reported in the investee's financial statements (see instuction 4), and provision for deferred taxes where it is reasonable to assume that undistributed earnings of an investee will be transferred to the investor in a taxable distribution. These memorandum accounts shall be closed at year-end to the retained income memorandum account discussed in paragraph (c) above.

(3) The carrier shall retain the following information for each investee in support of the worksheet or memorandum accounts:

(a) Original cost of investment.

(b) Equity in net assets of investee at date of acquisition.

(c) Allocation of difference between cost and equity in net assets, namely, to specific assets of investee or to goodwill.

(d) Accumulated amortization of difference between cost and equity in net assets.

(e) Unamortized balance of difference between cost and equity in net assets.

(f) Equity in undistributed earnings/losses for each year since date of acquisition.

(g) Dividends received since date of acquisition if determinable.

(h) Proceeds from sale of investments.

(4) Any difference between the investor's cost and its share of the net assets of the investee at date of acquisition shall be allocated to specific assets of the investee to the extent the difference is attributable to them. When the difference is allocated to depreciable or amortizable assets, depreciation and amortization (through the investment and income memorandum accounts) should absorb the difference over the remaining life of the related assets. If the difference is not related to specific accounts, it should be considered goodwill and amortized over a reasonable period not to exceed 40 years. For investments made prior to November 1, 1970, amortization of goodwill is not required in the absence of evidence that the goodwill has a limited term of existence.

(5) The financial statements of the investee that are used for equity accounting should be timely. If the accounting year of the investee differs from that of the investor then the most recent available financial statements may be used. The lag in reporting should be consistent from period to period.

(6) Material profits or losses on transactions between the investor and investee shall be eliminated until realized by either company as if the two were consolidated.

(7) A transaction of the investee of a capital nature that affects the investor's share of the investee's stockholder's equity should be reported in the financial statements as if the two were consolidated.

(8) The investor shall deduct any dividends applicable to outstanding cumulative preferred stock whether or not declared, and any other dividends declared when computing its share of undistributed earnings or losses.

(9) The investor shall suspend application of the equity method when the investment (including the investment memorandum account) together with any net advances made to the investee is reduced to zero. Additional losses shall not be provided for unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee. If the investee subsequently reports net income the investor shall resume applying the equity method at such time as its share of that net income equals the share of net losses not recognized during the period of suspension.

(10) When the investor's voting stock interest falls below the level of ownership described in paragraph (b)(1) of this instruction, the investment no longer qualifies for the equity method. Should dividends received on the investment in subsequent periods exceed the investor's share of earnings for such periods, the investment memorandum and income memorandum accounts shall be reduced by the excess amount.

(11) When the level of ownership of an investment increases to that described in paragraph (b)(1) of this instruction, the equity method shall be applied. The memorandum accounts for the investment, income (for current year's equity in undistributed earnings less amortization), and retained income (for prior years' equity in undistributed earnings less amortization) shall be adjusted retroactively on a step-by-step basis determining the equity in net assets at date of acquisition, amortization adjustment, and equity in undistributed earnings or

losses at each level of ownership. Where small purchases are made over a period of time and then a purchase is made which qualifies the investment for the equity method, the date of latest purchase may be used as date of acquisition. In those situations where the information needed to apply the equity method is not determinable, the date of acquisition may be considered as January 1, 1974.

(12) Information having significance with respect to the investor's ownership in investees shall be disclosed in notes to financial statements of annual reports filed with the Commission in accordance with generally accepted accounting principles.

(c) When securities with a fixed maturity date are purchased at a discount (i.e., when total cost including brokerage fees, taxes, commission, etc., is less than par), such discounts may be amortized over the remaining life of the securities through periodic debits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and credits to the same account in which interest income is credited. No debits shall be made in respect to discounts upon securities held as investments or in special funds if there is reason to believe that such securities will be disposed of by redemption or otherwise at less than par or will not be paid at date of maturity. When securities with a fixed maturity date are purchased at a premium (i.e., when the total cost including brokerage fees, taxes, commissions, etc., is in excess of par), such premium may be amortized over the remaining life of the securities through periodic credits to the account in which the securities are carried (preferably coincident with entries recording interest accruals) and debits to the same accounts in which the interest income is recorded.

NOTE: The carrier shall follow generally accepted accounting principles where an interpretation of the rules for equity accounting is needed or obtain an interpretation from its public accountant or the Commission.

Redesignated instruction "29 Form of general balance sheet statement" is amended by adding the following after line item "131 Other investments":

131 * * *
Pledged.
Unpledged.
Less: Reserve for adjustment of investments in securities.
Total investment securities and advances.
Tangible property.
* * * * *

GENERAL BALANCE SHEET ACCOUNTS

After the text of account "131 Other investments" the following new account number, title and text are added:

**132 Reserve for adjustment of investments in securities.**

(a) This account shall be credited with amounts charged to account 414, "Miscellaneous income charges", or account 435, "Extraordinary items (net)", as appropriate, to provide a reserve for adjustments in the value of investment securities included in account 130, "Investments in affiliated companies", and account 131, "Other investments", where there is a permanent impairment in the recorded values.

(b) If reserves are maintained for anticipated losses in specific securities, when such securities are disposed of, this account shall be charged to the extent of the credit balance applicable to the particular securities involved. The remainder, if any, shall be charged to account 414, "Miscellaneous income charges" or account 435, "Extraordinary items (net)," as appropriate.

(c) In case a general reserve for losses in unspecified security values is maintained, all such losses on disposition shall be charged to this account to the extent of the credit balance, and the remainder, if any, shall be charged to account 414, "Miscellaneous income charges" or account 435, "Extraordinary items (net)", as appropriate.

INCOME INSTRUCTIONS

Instruction "63 Form of income statement" is amended as follows:

**63 Form of income statement.**

* * * * *
401 Dividend (other than from affiliates) and interest income.
* * * * *
403 * * *
Income from affiliated companies.
Dividends.
Equity in undistributed earnings (losses).
Total other income.
* * * * *

[FR Doc.74-22063 Filed 9-20-74;8:45 am]

## Title 50—Wildlife and Fisheries

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

### PART 32—HUNTING

### Flint Hills National Wildlife Refuge, Kansas

The following special regulation is issued and is effective September 23, 1974.

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

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and mergansers on the Flint Hills National Wildlife Refuge, Kansas, is permitted as follows: Ducks, coots, and mergansers October 19 through December 8, 1974, inclusive, and from December 23 through December 29, 1974, inclusive; Canada Geese October 19, through December 15, 1974, inclusive, and White-fronted and Snow Geese October 1 through December 29, 1974, inclusive, but only on the area designated by signs as open to hunting. All State and Federal laws and regulations apply. This open area is delineated on maps available at refuge headquarters. Burlington, Kansas, and from the Area Manager, U.S. Fis and Wildlife Service, Federal Building Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Refuge hunting shall be subject to the following special conditions:

(1) Vehicle access shall be restricted to designated parking areas and to existing roads.

(2) Blind construction by the public is permitted but limited to temporary above ground construction. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be detremined on a first-come-first-serve basis.

The provisions of the 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.

MICHAEL J. LONG,
*Refuge Manager, Flint Hills National Wildlife Refuge, Burlington, Kansas.*

SEPTEMBER 13, 1974.

[FR Doc.74-21938 Filed 9-20-74;8:45 am]

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER F—AID TO FISHERIES

### PART 251—FINANCIAL AID PROGRAM PROCEDURES

### Fishery for Salmon in Alaska

On March 28, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 11429) stating that the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, was considering an amendment to Financial Aid Program Procedures (50 CFR Part 251) to incorporate in Subpart B of Part 251 a new section to adopt the "fishery for salmon in Alaska" as a Conditional Fishery. This notice contained an explanatory statement describing the principal situations and conditions under consideration for determining that this fishery should be adopted as a Conditional Fishery and that the use of financial assistance programs to add vessel capacity to this fishery would not be consistent with the wise use of that fishery resource and with the development, advancement, management, conservation, and protection of that fishery.

Subpart A of 50 CFR Part 251 sets forth the general policy under which financial assistance programs for the commercial fishery will be administered and establishes the procedure to be used in proposing and adopting a fishery as a Conditional Fishery. Each fishery adopted as a Conditional Fishery will be enumerated under Subpart B of 50 CFR Part 251. The terms under which financial assistance related to a Conditional Fishery may be approved are set forth in the regulations on procedures and administration of each financial assist-

ance program. Consequently, in considering the adoption of a Conditional Fishery, the terms and conditions of regulations for administering the Fishing Vessel Obligation Guarantee program (50 CFR Part 255) and the Fishing Vessel Capital Construction Fund program (50 CFR Part 259) are reviewed to assure that due consideration is afforded to participants or potential participants in these programs.

Four comments were received in response to the proposed amendment to adopt the "fishery for salmon in Alaska" as a Conditional Fishery. The Alaska Department of Fish and Game endorsed the proposal as it supports Alaska in its attempt to manage Alaska's salmon fishery in a manner consistent with biological and economic principles. Alaska's Commercial Fisheries Entry Commission also endorsed the proposal and indicated that it was consistent with the Commission's objectives and program of regulating and controlling entry into Alaska's commercial fishery. Two industry members expressed concern that under this proposed amendment, financial assistance programs of the National Marine Fisheries Service would not be available for vessel owners already operating in a Conditional Fishery.

A review of the regulations for administering the Fishing Vessel Obligation Guarantee program (50 CFR Part 255) and of the Fishing Vessel Capital Construction Fund program (50 CFR Part 259) was made in response to the two industry comments. It was determined that these program regulations do allow participation by owners of vessels already operating in a Conditional Fishery for approved purposes other than adding vessel capacity to a fishery adopted as a Conditional Fishery.

Having considered the comments received, the Director concludes that the proposal to amend Part 251 of this Chapter, Subpart B—Conditional Fisheries, to add a new § 251.21 is hereby adopted as set forth below. This section shall be effective September 23, 1974.

**Subpart B—Conditional Fisheries**

**§ 251.21 Fishery for salmon in Alaska.**

Dated: September 16, 1974.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
*Administrator.*

[FR Doc.74-21941 Filed 9-20-74;8:45 am]

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**Title 26—Internal Revenue**

**CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**

**SUBCHAPTER F—PROCEDURE AND ADMINISTRATION**

[T.D. 7325]

## PART 420—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

### Temporary Rules Regarding Disclosure of Certain Information With Respect to Deferred Compensation Plans

Disclosure of information relating to deferred compensation plans by the Secretary or his delegate to proper officers and employees of the Pension Benefit Guaranty Corporation is authorized by section 6103(g) of the Internal Revenue Code of 1954, as added by section 1022 (h) of the Employee Retirement Income Security Act of 1974, P.L. 93-406 (hereinafter referred to as the "Act"). This document contains temporary regulations on Procedure and Administration (26 CFR Part 420) which shall remain in force and effect until superseded by permanent regulations. The purpose of this temporary regulation is to provide for disclosure, pursuant to section 6103 (g), by the Internal Revenue Service of certain identification and statistical information to the Pension Benefit Guaranty Corporation which is required immediately by it for purposes of the administration of the collection of premiums under title IV of the Act and to assist it in responding to inquiries and claims in respect of the application of the provisions of title IV to specific plans.

The temporary regulations also prescribe by title the officer of the Pension Benefit Guaranty Corporation permitted to request information. The temporary regulations limit access to the information to the proper users of the information, and provide restrictions on the use of any information obtained.

The regulations set forth in this document comprise the first of a number of units of temporary regulations to be issued under the Employee Retirement Income Security Act of 1974. Because of the large number of temporary regulations which are expected to be issued under that Act, and in the interest of making it easier for members of the public to locate the regulations in which they are interested, the sections of temporary regulations under the Act are to be designated in a manner different from that which has been used in connection with temporary regulations issued under other tax laws. Each section of the temporary regulations to be issued under the Employee Retirement Income Security Act of 1974 will be designated by a number composed of a part number (Part 11 in the case of temporary income tax regulations; Part 141 in the case of temporary excise tax regulations; or Part 420 in the case of temporary regulations on procedure and administration) followed by a decimal point and the number of the corresponding provision of the Internal Revenue Code of 1954, followed in turn by a hyphen and a number identifying the regulations section. The temporary regulations contained in this document are the first of these temporary regulations under section 6103(g) of such Code and are to appear in Part 420, Temporary Regulations on Procedure and Administration under the Employee Retirement Income Security Act of 1974. Thus, the regulation set forth below is numbered § 420.6103(g)-1. This follows closely the numbering procedure used for permanent regulations issued by the Internal Revenue Service.

ADOPTION OF REGULATIONS

In order to prescribe temporary regulations, which shall remain in force and effect until superseded by permanent regulations, relating to disclosure to the Pension Benefit Guaranty Corporation of certain information with respect to deferred compensation plans, the following regulations are hereby adopted:

**§ 420.6103(g)-1 Disclosure of certain identification and statistical information to the Pension Benefit Guaranty Corporation.**

(a) *In general.* Pursuant to section 6103 (g), the Commissioner of Internal Revenue or his delegate may furnish to the Pension Benefit Guaranty Corporation upon writen request signed by its Executive Director, setting forth the specific purpose for which the information is needed in the administration of title IV of the Employee Retirement Income Security Act of 1974 (hereafter referred to in this section as the "Act"), the following information in respect of a plan deferring receipt of compensation (within the meaning of section 404) maintained by an employer:

(1) With respect to each employer maintaining such a plan, the—

(i) Name,
(ii) Address,
(iii) Employer identification number (EIN),
(iv) Type of business entity,
(v) Total number of employees, and
(vi) Taxable year of the employer.

(2) With respect to each such plan which is administered by a board of trustees or other administrator which has been assigned an employer identification number (EIN), the—

(i) Name,
(ii) Address,
(iii) Employer identification number (EIN), and
(iv) Taxable year of such board or other administrator.

(3) With respect to each such plan, the—

(i) Plan serial number,
(ii) Type of plan,
(iii) Type of benefit,
(iv) Total number of plan participants,
(v) Number of participants with fully vested rights under the plan,
(vi) Fund type of entity,
(vii) Medium of funding,
(viii) Amount of contributions, and
(ix) Amount of assets.

(b) *Disclosure of information.* Any information obtained under this section by the Pension Benefit Guaranty Corporation shall be held confidential, and shall not be disclosed to any person, department, or agency except proper officers and employees of the Pension Benefit Guaranty Corporation whose duties require such information for the purposes specified in the request, and they may use itonly for such purposes. The Pension Benefit Guaranty Corporation may use information obtained under this section to mail forms, instructions, and announcements to employers, plan sponsors and administrators provided that the mailing is performed solely by the Pension Benefit Guaranty Corporation or in such manner as the Commissioner

of Internal Revenue or his delegate agrees to in writing. Information obtained under this section may be published or disclosed in statistical form provided that such publication or disclosure does not reveal, directly or indirectly, the identity of any person or associate any information obtained under this section with any person.

(c) *Effective date.* This section shall be effective on September 20, 1974.

Because this Treasury decision constitutes a general statement of policy and establishes rules of Departmental practice and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

Approved: September 20, 1974.

FREDERIC W. HICKMAN,
*Assistant Secretary of the Treasury.*

[FR Doc.74-22192 Filed 9-20-74;10:04 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-SW-25; Amdt. 39-1963]

### PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 204B and 205A-1 Helicopters

A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive, superseding Amendment 39-1860 (39 FR 19448), AD 74-12-05, requiring replacement of the tail rotor pitch change chains prior to or on attaining 150 hours total time in service, and requiring tail rotor rigging in accordance with Service Bulletin No. 205-05-74-1, Rev. A., and retaining the repetitive inspections of Amendment 39-1860 on Bell Model 204B and 205A-1 helicopters was published in 39 FR 27692.

The agency proposed to make the adopted rule of the new AD effective on publication in the FEDERAL REGISTER and specific comments on this proposal were also requested.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment was received in response to the proposals. The operator suggested a control system redesign to provide a conventional chain that would be placed in service immediately. The operator reported one chain failure occurred at 37 hours since new. The manufacturer has been considering certain redesigns of the tail rotor control. Until these changes are approved, the pitch change chains will be subject to the repetitive inspections and mandatory retirement as specified in the AD. The repetitive inspections should detect impending chain failures.

Since publication of the proposal, one additional report of an inflight failure of the tail rotor pitch chain, P/N 205-001-721-1 on a Bell Model 205A-1 was received. Manufacturing techniques may have contributed to the failure of the chain links. Bell Helicopter Co., issued a message dated August 2, 1974 and letter dated August 12, 1974, concerning a 50 hour retirement life on the chains P/N 205-001-721-1 manufactured prior to June 1, 1974. Chains manufactured on or after June 1, 1974 are subject to a 150 hour retirement time. Therefore the agency additionally proposes to require replacement of chains P/N 206-001-721-1, manufactured prior to June 1, 1974, prior to or on attaining 50 hours total time in service. The proposed 150 hour replacement time on chains P/N 205-001-721-1 manufactured on or after June 1, 1974 will be retained.

The 150 hour replacement time on chains P/N 205-001-748-1, regardless of the manufacturing date, will be retained as proposed.

Since a situation exists that requires immediate adoption of this rule change, it is found that further notice and public procedure are impracticable and good cause exists for making the amendment effective in less than thirty days. If the results of the evaluation and tests of chains substantiate relaxation of the inspections and retirement time, the agency may process any changes by means of an adopted rule.

In consideration of the foregoing, and pursuant to the authority dlegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

BELL.—Applies to Bell Model 204B and 205A-1 helicopters, certificated in all categories.

Compliance required as indicated.

To detect cracks in the tail rotor pitch change link segments and to prevent possible failure of the tail rotor pitch change chains accomplish the following repetitive inspections on chains, P/N 205-001-721-1 and 205-001-748-1.

(a) Within five hours time in service after June 7, 1974, unless already accomplished, and thereafter at intervals not to exceed 25 hours time in service from the last inspection, accomplish the following inspections:

(1) Remove the chain or chains from the helicopter in accordance with the applicable maintenance manual.

(2) Clean each chain with solvent and stiff bristle brush and air dry.

(3) Roll each chain into a tight flat disc and inspect the links' outer segments, both sides, for cracks using a light and a ten power or higher magnifying glass. Unroll the chain and with teeth up, inspect inner segments of the links at the radius between the teeth. Turn each chain over and inspect the opposite side of the link segments.

(4) Replace chains with cracked segments before further flight.

(5) Install chains with uncracked link segments in accordance with the pertinent maintenance manual and rig tail rotor controls in accordance with the pertinent maintenance manual. If 212-010-701 Tail Rotor Hub and Blade Assembly is installed on the Model 205A-1, rig the controls in accordance with the maintenance manual and as specified in Bell Helicopter Company Service Bulletin No. 205-05-74-1, Revision A, dated June 24, 1974 or later approved revision.

(b) Before the first flight of each day after June 7, 1974, accomplish the following repetitive inspections.

(1) Remove the cover from the chain assembly.

(2) Inspect each chain assembly for cracks in the link segments using a 3 power or higher magnifying glass. Particular attention should be placed on the portion of each chain that travels over each sprocket and that extends three inches each side of this area or portion.

(3) Remove chains with cracked segments before further flight in accordance with the applicable maintenance manual.

(4) Install chains with uncracked segments in accordance with the applicable maintenance manual and rig the controls as specified in paragraph (a)(5) of this A.D.

(c) Replace chains, P/N 206-001-721-1, having manufacturing dates of June 1, 1974 or later etched on the clevis, as follows:

(1) Replace chains with more than 140 hours total time in service on the effective date of this A.D. within 10 hours time in service.

(2) Replace chains with less than 140 hours total time in service on the effective date of this A.D. prior to attaining 150 hours total time in service.

(d) Replace chains, P/N 205-061-721-1, having manufacturing dates prior to June 1, 1974, as follows:

(1) Replace chains with more than 40 hours total time in service on the effective date of this A.D. within 10 hours time in service.

(2) Replace chains with less than 40 hours total time in service on the effective date of this A.D. prior to attaining 50 hours total time in service.

(e) Replace chains, P/N 205-001-748-1, with more than 140 hours total time in service on the effective date of this A.D. within 10 hours total time in service. Replace chains, P/N 205-001-748-1, with less than 140 hours total time in service on the effective date of this A.D. prior to attaining 150 hours total time in service.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Company, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this A.D. which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas. (Bell telefax messages dated May 10, 1974, June 15, 1974 and August 2, 1974 pertain to this subject, and Information Letter to all Bell 204B/205A-1 operators 35:WJD: jge-3152 dated August 12, 1974 also pertains to this subject.)

This supersedes Amendment 39-1860 (39 FR 19448), A.D. 74-12-05.

This amendment becomes effective September 21, 1974.

Issued in Fort Worth, Texas on September 9, 1974.

HENRY L. NEWMAN,
*Director, Southwest Region.*

NOTE: The incorporation by reference provisions in this document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.74-22184 Filed 9-20-74;9:24 am]

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[Airspace Docket No. 74-NW-11]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Alteration of Jet Routes; Correction

On September 4, 1974, FR Doc. 74-20322 was published in the FEDERAL REGISTER (39 FR 32012) and amends Part 75 of the Federal Aviation Regulations, effective 0901 G.m.t., November 7, 1974, by altering several Jet Routes in the Olympia, Wash., Area. FR Doc. 74-20322 indicated that J-54 from Pendleton, Oreg., via Olympia, Wash.; to Neah Bay, Wash., NDB, was revised. Actually, this portion of J-54 was intended as an addition to existing J-54 and not as a replacement to the existing route. The document also realigned and extended J-126 to Vancouver, B.C. The description of J-126 inadvertently included that portion of the route within Canada. Action is taken herein to correct the description of J-54 and J-126.

Since this amendment is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary. However, since it is necessary that aeronautical charts be depicted correctly, this amendment is being made effective immediately.

In consideration of the foregoing, effective on September 23, 1974, FR Doc. 74-20322 (39 FR 32012) is amended, as hereinafter set forth.

In No. 2. J-54 is revised to read as follows:

"Jet Route No. 54. From Neah Bay, Wash., NDB, via Olympia, Wash.; Pendleton, Oreg.; Boise, Idaho; to Pocatello, Idaho."

In No. 3. J-126 is revised to read as follows:

"Jet Route No. 126. From Los Angeles, Calif., via the INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Stockton, Calif.; Sacramento, Calif.; Red Bluff, Calif.; Medford, Oreg.; Eugene, Oreg.; Newberg, Oreg.; Olympia, Wash.; to Vancouver, British Columbia, Canada. That portion outside the United States is excluded."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on September 17, 1974.

GORDON E. KEWER,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.74-21944 Filed 9-20-74;8:45 am]

# proposed rules



## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 52 ]

### ORANGE MARMALADE

### Grade Standards [1]

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Orange Marmalade pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624). The cited section of the Agricultural Marketing Act of 1946 provides for the issuance of official United States grades to designate different quality levels for voluntary use of producers, buyers, and consumers. Official grading services are also provided for under this Act upon request and upon payment of the fee to cover the cost of such services.

Interested persons desiring to submit written data, views, or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than October 25, 1974, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public review at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

STATEMENT OF CONSIDERATION LEADING TO THE AMENDMENT

The National Preservers Association, representing a large segment of the preserving industry has requested that the minimum soluble solids content for (finished) orange marmalade be reduced from the present 68 percent to 65 percent. Reducing the soluble solids to 65 percent is in keeping with the new minimum soluble solids for fruit preserves under the amended Food and Drug Standards of Identity for Fruit Preserves which become effective October 29, 1974.

The proposed amendment would change § 52.1451 (only) to read:

**§ 52.1451 Product description.**

Orange marmalade is the semi-solid or gel-like product prepared from orange fruit ingredients together with one or more sweetening ingredients and may contain suitable food acids, food pectins, lemon juice, or lemon peel. The ingredients are concentrated by cooking to such a point that the soluble solids content of the finished marmalade is not less than 65 percent.

Dated: September 18, 1974.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.74-22051 Filed 9-20-74;8:45 am]

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

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### [ 7 CFR Part 905 ]

### ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Proposed Extension of Grade and Size Requirements

These proposals would extend the current grade and size requirements for the period October 21, 1974, through September 28, 1975, applicable to the handling of oranges, grapefruit, tangerines, and tangelos grown in the production area in Florida. Shipments of Florida oranges, grapefruit, tangerines, and tangelos are currently regulated through October 20, 1974, pursuant to Orange Regulation 73, Grapefruit Regulation 75, Tangerine Regulation 46, Tangelo Regulation 46, and Export Regulation 24. The proposed extension of the effective period of such regulations is designed to promote orderly marketing and provide consumers with an ample supply of acceptable-quality fruit.

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendments were proposed by the Growers Administrative Committee, established under said amended marketing agreement and order, as the agency to administer the terms and provisions thereof.

The proposed amendments reflect the committee's appraisal of the need for regulation of shipments of the specified varieties of oranges, grapefruits, tangerines, and tangelos during the period October 21, 1974, through September 28, 1975, based on the available supply and current and prospective market conditions. The amendments are designed to continue shipment of ample supplies of fruit of the better grades and more desirable sizes in the interest of both growers and consumers. The proposed action is designed to maintain orderly marketing conditions by preventing the adverse effect on the market caused by shipment of lower-quality and smaller-size fruit when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The proposed amendments are consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The regulatory proposals are as follows:

*Order.* 1. In § 905.555 (Orange Regulation 73; 39 FR 32976) the provisions of paragraph (b) preceding paragraph (1) thereof are amended to read as follows:

**§ 905.555 Orange Regulation 73.**

* * * * *

(b) During the period October 21, 1974, through September 28, 1975, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

2. In § 905.556 (Grapefruit Regulation 75; 39 FR 32976) the provisions of paragraph (b) preceding paragraph (1) thereof are amended to read as follows:

**§ 905.556 Grapefruit Regulation 75.**

* * * * *

(b) During the period October 21, 1974, through September 28, 1975, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

3. In § 905.557 (Tangerine Regulation 46; 39 FR 32976) the provisions of paragraph (b) preceding paragraph (1) thereof are amended to read as follows:

**§ 905.557 Tangerine Regulation 46.**

* * * * *

(b) During the period October 21, 1974, through September 28, 1975, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

4. In § 905.558 (Tangelo Regulation 46; 39 FR 32976) the provisions of paragraph (b) preceding paragraph (1) thereof are amended to read as follows:

**§ 905.558 Tangelo Regulation 46.**

* * * * *

(b) During the period October 21, 1974, through September 28, 1975, no handler shall ship between the production area

and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

5. In § 905.559 (Export Regulation 24; 39 FR 32976) the provisions of paragraph (b) preceding paragraph (1) thereof are amended to read as follows:

**§ 905.559 Export Regulation 24.**

* * * * *

(b) During the period October 21, 1974, through September 28, 1975, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than October 11, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 17, 1974.

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

[FR Doc.74-21970 Filed 9-20-74;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### [ 29 CFR Part 1910 ]

[Docket No. OSH-38]

### EMPLOYMENT RELATED HOUSING (TEMPORARY LABOR CAMPS)

### Safety and Health Standards

Pursuant to section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754) and 29 CFR Part 1911, it is hereby proposed to revise § 1910.142 of 29 CFR as set forth below.

The revision proposed herein contains the standards which, if adopted, would apply generally under the Williams-Steiger Occupational Safety and Health Act of 1970 to housing furnished by employers to employees, to the extent that such housing constitutes a condition of employment. The scope of these standards is more fully described in § 1910.142(a).

Part 620 of 20 CFR sets forth certain standards relating to housing for agricultural workers. Those standards set minimum housing conditions that must be available to farm workers before the Manpower Administration of the U.S. Department of Labor will authorize its recruitment service to be made available to farm employers (see 20 CFR 620.1).

The standards issued by the Manpower Administration are limited in application, as they concern only agricultural employment and only those situations where the Manpower Administration's assistance has been sought to help employers recruit agricultural workers from other states. On the other hand, the occupational safety and health standards proposed herein apply to all employments covered by 29 CFR Part 1910, to the extent that housing is a condition of employment.

There are circumstances where both the proposed Occupational Safety and Health Administration (OSHA) standards and the Manpower Administration standards would apply to the same housing facilities. For example, where housing is furnished by an employer to agricultural employees as a condition of employment, the Manpower Administration housing standards would apply prior to occupancy by the workers and the OSHA standards would apply when the housing facilities are occupied by the employees. To avoid the undue and unnecessary burden of requiring employers to become familiar with and to comply with two sets of standards which may differ in some respects, OSHA's position has been that to the extent the standards overlap, compliance with either standard would be considered compliance under the Occupational Safety and Health Act (37 FR 743).

It has been decided that the policies of OSHA and the Manpower Administration should be further coordinated by the development of a single Department of Labor standard for employment related housing. This standard would be applied and enforced by both agencies within their respective areas of authority.

Accordingly, the revision proposed herein, if adopted, will become the OSHA standard for employment related housing. It is expected that the Manpower Administration would then propose the same standard, so as to achieve uniformity within the Department of Labor. The two agencies would also coordinate their respective enforcement of the single standard.

The significant changes proposed herein are summarized as follows:

(1) The proposal would change the title of § 1910.142 from "temporary labor camps" to "employment related housing" so as to more accurately describe the subject of the standard;

(2) Proposed paragraph (a)(1) sets forth the scope of the standard and clearly indicates that its application is limited to non-mobile housing sites provided by an employer as a condition of employment. (Rulemaking proceedings to be commenced at a future date will be directed toward the establishment of standards specifically applicable to the conditions of mobile housing.);

(3) Proposed paragraph (b)(1) deletes the requirement currently in § 1910.142 (a)(1) that drainage through and from the camp will not endanger any public water supply, as occupational safety and health standards should properly relate to employees and their places of employment;

(4) Proposed paragraph (b)(2) adds the requirement to the present § 1910.142 (a)(3) that "noxious plants (poison ivy, etc.)" as well as rubbish, debris, garbage, or other refuse be removed from areas surrounding the shelters. Noxious plants present a health hazard and can reasonably be expected to be removed;

(5) Proposed paragraph (b)(3) deletes the requirement in the present § 1910.142 (a)(2), that sleeping or living quarters be located at least 500 feet from any area in which livestock is kept. This requirement could prove physically impracticable and unnecessary to the provision of safe or healthy working conditions in many situations, such as may be found in housing of agricultural employees. The proposal modifies § 1910.142(a)(2) by removing the reference to 500 feet and requiring that livestock be located outside the housing site to minimize potential health hazards to employees. The requirement presently in § 1910.142 (a)(2) that sites be adequate in size is also deleted by the proposal. This requirement is vague and unnecessary for employee safety and health;

(6) Proposed paragraph (b)(4) adds a new requirement that prohibits storage or mixing of agricultural pesticides and toxic chemicals in the housing site. This requirement does not prohibit the use of household pesticides in shelters;

(7) The proposal deletes the present requirements in paragraphs (b)(4) and (b)(5) which specifically require shelter floors to be of wood, asphalt or concrete and that wood floors be elevated 1 foot above ground to prevent dampness. They are replaced by a requirement in paragraph (c)(2) requiring flooring to be constructed of rigid materials and so located as to prevent the entrance of ground and surface water. Limiting flooring materials to only wood, asphalt or concrete and requiring a 1-foot elevation for wooden floors is unduly limiting where desired results can be attained as well with other materials and construction;

(8) Proposed paragraph (c)(5) would delete the spacing requirements between beds, cots or bunks, currently in paragraph (b)(3). The floor space requirements contained in proposed paragraphs (c)(4) and (c)(7) adequately provide sufficient space for employees within the shelter;

(9) Proposed paragraph (c)(6) requires that separate sleeping accommodations be provided for each sex or each family. This proposal recognizes the potential physiological and psychological problems which may arise where separate facilities are not provided;

(10) Proposed paragraph (c)(8) revises the present paragraph (b)(7), by permitting ventilation of habitable rooms by mechanical or other means as well as by openable windows. The proposed rule would also delete the "one-tenth" and "one-half" requirements relating to provision and construction of windows;

(11) Proposed paragraph (c)(9) would permit existing housing sites provided for agricultural employees and meeting the space requirements of 20 CFR 620.7 (c) to be so maintained. Housing sites constructed after the effective date of

this proposed paragraph would be required to conform to the space requirements of paragraphs (c)(4) and (c)(7) of the proposal;

(12) Proposed paragraph (e)(1) requires that potable water be provided for drinking, cooking, bathing, and laundry purposes and conforms to the definition of potable water to that adopted in the general sanitation standard (§ 1910.141(a)(2)(v));

(13) Proposed paragraph (e)(2) deletes the requirement in the present §1910.142(c)(3) that the water supply system be capable of supplying water for "simultaneous operation" of all fixtures. Such a requirement for "simultaneous operation" appears unrelated to safety and health;

(14) Proposed paragraph (e)(3) references those rules in §1910.141(b) which could find application in this section (i.e., drinking fountains, portable water dispensers, ice in drinking water, open containers, common drinking cups and single service cups). This paragraph has deleted, as being unrelated to safety and health, the requirement in § 1910.142(c)(4) that one drinking fountain be provided for each 100 occupants or fraction thereof and be constructed in accordance with ANSI Standard Specifications for Drinking Fountains, Z4.2–1942. The proposed rule does not require drinking fountains, but does require them to be constructed in accordance with §1910.141(b)(1)(ii) if they are provided. The requirements in §1910.141(b)(1)(ii) are extractions from ANSI Z4.2–1942 and are considered the most relevant rules which do facilitate maintenance of a sanitary facility and are so referenced in lieu of the entire ANSI standard;

(15) Proposed paragraph (f) adds two requirements to the present §1910.142(e). These additions prohibit liquid wastes from being discharged or allowed to accumulate on the ground surface and require the use of septic tank-seepage system or other non-water carriage disposal system in accordance with §1910.143 where public sewers are not available;

(16) Proposed paragraph (g) establishes the number of lavatories and bathing facilities required to be provided in accordance with 20 CFR 620.12. Bathtubs would be permitted in lieu of showerheads. In addition, providing a laundry service would be permitted in lieu of providing laundry facilities. This proposed paragraph also adopts the provision in 20 CFR Part 620 that separate bathing facilities be provided for each sex in common use facilities. Exceptions to this rule are permitted in individual family units and for bathing rooms which are designed for single occupancy;

(17) Standards concerning heating based on 20 CFR 620.9 are set forth in paragraph (h);

(18) Proposed paragraph (i) deletes the specific light level requirements in the present § 1910.142(g) and requires all wiring and lighting fixtures to be installed and maintained in accordance with Subpart S of Part 1910;

(19) Proposed paragraph (j)(1) deletes the requirement currently in § 1910.142(h)(1) that refuse containers be located within 100 feet of each shelter and placed on a wooden, metal, or concrete stand. Location of refuse containers for convenience purposes does not relate to safety and health, nor does the placing of the container on a wooden, metal or concrete stand appear relevant;

(20) Proposed paragraph (k)(2) deletes as being unrelated to safety and health, the rules in the present § 1910.142(d)(2) that toilet rooms shall be located so as to be accessible without any individual passing through any sleeping room and that the window required to be in toilet rooms be at least 6-square feet in area;

(21) Proposed paragraph (k)(3) deletes, as being unrelated to safety and health, the requirement from the present § 1910.142(d)(3) that a toilet room shall be located within 200 feet of the door of each sleeping room;

(22) Proposed paragraph (k)(5) replaces the present § 1910.142(d)(5) and changes the number of toilet facilities required to be provided to conform to the requirements in § 1910.141(c);

(23) Proposed paragraph (k)(6) replaces § 1910.142(d)(6). The proposal deletes the requirement that urinals must be provided and only regulates their construction if they are provided and permits urinals in men's toilet rooms to count towards compliance with the required number of toilets specified in proposed paragraph (k)(5);

(24) Proposed paragraph (l) replaces § 1910.142(b)(10). The proposal deletes the specific requirement for the number of stoves to be provided as being unrelated to safety and health, but includes additional duties that means of refrigeration of food, and tables and chairs for dining, be provided. The intent of these rules are to facilitate prevention of food spoilage and its associated health hazard and to facilitate maintenance of proper housekeeping;

(25) Proposed paragraph (m)(2) deletes § 1910.142(i)(2) a rule prohibiting direct openings from living and sleeping quarters into kitchens or dining halls;

(26) Proposed paragraph (m)(3) deletes from the present the prohibition of employees with communicable disease from working in food service establishments which are "regularly used by persons living in a camp." The present rule could be interpreted as apply to any commercial food establishment frequented by housing occupants. The intent of the proposed rule is to apply only to employer-provided facilities operated in connection with the housing facility, for the employer has no control over outside commercial food establishments and no control over which such establishments his employees might regularly use;

(27) Proposed paragraph (o) modifies § 1910.142(l) by placing the duty of reporting on the employer rather than the camp superintendent. This does not prohibit the employer from designating an individual to perform the tasks but places the responsibility on the employer to insure they are performed;

(28) Proposed paragraph (o) adds two new subparagraphs designed to insure the establishment and facilitate the effectiveness of a plan of communication to provide emergency medical services;

(29) Proposed paragraph (p) prescribes several common practices relating to fire prevention and protection and requires a fire suppression system in accordance with Subpart L of Part 1910 to be provided; and

(30) Proposed paragraph (q) requires all shelters to be provided with means of egress in accordance with the provisions of Subpart E of Part 1910. Providing proper means of egress from buildings is considered a major aspect in protecting the safety and health of the occupants of a building.

Written comments concerning the proposal may be mailed to the U.S. Department of Labor, Occupational Safety and Health Administration, Docket Officer, Docket OSH–38, Room 220, 1726 M Street, NW., Washington, DC 20210, on or before October 23, 1974. The data, views, and arguments will be available for public inspection and copying at the above address.

Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written matter as provided above, file objections to the proposal requesting an informal hearing with respect thereto, in accordance with the following conditions:

(1) The objections must include the name and address of the objector.

(2) The objections must be postmarked on or before October 23, 1974.

(3) The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor.

(4) Each objection must be separately stated and numbered.

(5) The objections must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

As revised, § 1910.142 would read as follows:

**§ 1910.142 Employment related housing.**

(a) *General*—(1) *Scope.* (i) This section is applicable to all housing sites, including those that utilize tents, that are owned, managed or controlled by employers and are furnished by them to employees as a condition of employment; however, facilities which because of the nature of the work are mobile, such as may be the case with trailers and railroad cars, are not subject to the requirements in this section unless such normally mobile facilities are permanently located and not utilized as mobile facilities.

(ii) The furnishing of housing sites will be deemed "a condition of employment" only when the employees are required by the employer to utilize them, or are compelled by the practical or economic realities of the employment situation to utilize them. However, if housing

made available by an employer is accepted by employees voluntarily, without contractual or practical compulsion, for example, on normal landlord-tenant basis and in preference to other reasonably available facilities, such housing would not constitute a condition of employment.

(2) *Definitions applicable to this section.* (i) Subject to the limitations set forth in paragraph (a) (1) of this section, "Housing site" means the land site, shelters, service facilities and related appurtenances, provided by an employer for the occupancy and use by employees engaged in any occupation or work for which a labor force is maintained in such housing.

(ii) "Shelter" means any structure, within the scope of this section, of one or more rooms, used for sleeping or living purposes.

(b) *Site.* (1) All housing site land shall be adequately drained. Housing sites shall not be subject to periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such quiescent water surfaces are subjected to effective mosquito control measures. Housing sites shall be located so the drainage from and through the site will not endanger its water supply. All housing site land shall be graded, ditched, and rendered free from depressions in which water may collect.

(2) The grounds and open areas surrounding the shelters shall be maintained in a clean and sanitary condition free from noxious plants (poison ivy, etc.), rubbish, debris, garbage, or other refuse.

(3) Livestock shall not be quartered or fed within the housing site.

(4) Agricultural pesticides and toxic chemicals shall not be stored or mixed in the housing site, nor shall empty containers be used or stored in, or adjacent to the housing site.

(c) *Shelter.* (1) Every shelter shall have a waterproof roof.

(2) Shelters shall have flooring constructed of smoothly finished and readily cleanable rigid materials, and so located as to prevent the entrance of ground and surface water.

(3) Nothing in this section shall be construed to prohibit "banking", where floors are elevated, with earth or other suitable material around the outside walls in areas subject to extreme low temperatures.

(4) Each room used for sleeping purposes shall contain at least 50 square feet of floor space for each employee except as permitted by paragraph (c) (9) of this section. At least one-half of the floor area in each sleeping area shall have a minimum ceiling height of 7 feet.

(5) Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes for each employee accommodated there. Triple-deck bunks are prohibited.

(6) Separate private areas for sleeping shall be provided for each sex or each family.

(7) In a room where employees cook, live, and sleep a minimum of 100 square feet per employee shall be provided except as permitted by paragraph (c) (9) of this section.

(8) Except where ventilation is provided by mechanical or some other method, each habitable room in a shelter shall have openable windows or skylight openings directly to the out-of-doors.

(9) Housing sites constructed prior to (effective date of this paragraph would be inserted here), provided for the use of agricultural employees and meeting the space requirements in effect on that date under 20 CFR 620.7(c) are deemed to be in compliance with the space requirements of this paragraph. The requirements of that provision are that the following be provided:

(i) For sleeping purposes only in family units and in dormitory accommodations using single beds, not less than 50 square feet of floor space per occupant;

(ii) For sleeping purposes in dormitory accommodations using double bunk beds only, not less than 40 square feet per occupant;

(iii) For combined cooking, eating, and sleeping purposes not less than 60 square feet of floor space per occupant.

(d) *Insect and rodent control.* (1) Every enclosed shelter shall be constructed, equipped and maintained, so far as reasonably practicable, in such a manner as to prevent the entrance or harborage of rodents, insects and other vermin. A continuing and effective extermination program shall be instituted where their presence is detected.

(2) Exterior openings in all shelters shall be effectively screened where necessary to limit the entrance of insects, rodents and other vermin.

(3) Where necessary to limit the entrance of insects, rodents and other vermin, all screen doors shall be tight fitting, in good repair, and equipped with self-closing devices.

(e) *Water supply.* (1) Potable water shall be provided for drinking, cooking, bathing, and laundry purposes. "Potable water" means water which meets the quality standards prescribed in the U.S. Public Health Service Drinking Water Standards published in 42 CFR Part 72, or water which is approved for drinking purposes by the State or local authority having jurisdiction.

(2) Water outlets shall be distributed throughout the housing site in such a manner that no shelter is more than 100 feet from a yard hydrant if water is not piped to the shelters.

(3) There shall be compliance with the requirements prescribed in § 1910.141 (b), relating to water supply, drinking fountains, portable drinking water dispensers, ice in contact with drinking water, open containers for drinking water, common drinking cups, single service cups and use of nonpotable water.

(f) *Excreta and liquid waste disposal.* (1) Facilities shall be provided and maintained for effective disposal of excreta and liquid waste. Raw or treated liquid waste shall not be discharged or allowed to accumulate on the ground surface.

(2) Where public sewer systems are available, all facilities for disposal of excreta and liquid wastes shall be connected thereto.

(3) Where public sewers are not available, a subsurface septic tank-seepage system or other type of liquid waste treatment and disposal system or a non-water carriage disposal system in accordance with § 1910.143 of this Part, shall be provided.

(g) *Laundry, handwashing, and bathing facilities.* (1) Bathing and handwashing facilities, supplied with hot and cold water, shall be provided for the use of all employees.

(2) There shall be a minimum of 1 bathtub or shower head per 15 employees or fraction thereof. Shower floors shall be constructed of nonabsorbent materials and sloped to properly constructed floor drains. Except in individual family units, and except as otherwise indicated in this paragraph, bathing facilities in rooms separate for each sex, shall be provided. The number of facilities to be provided for each sex shall be based on the number of employees of that sex who are accommodated within the housing site. Where bathing rooms will be occupied by no more than one employee at a time, can be locked from the inside, and contain at least one shower head or bathtub, separate rooms for each sex need not be provided. Where such single occupancy rooms have more than one shower head or bathtub, only one such facility in each room shall be counted for the purpose of meeting minimum bathing facility requirements. When common use bathing facilities for both sexes are in the same building they shall be separated by a solid nonabsorbent wall extending from the floor to ceiling, or roof, and shall be plainly designated "men" or "women" in English and in the native language of the employees expected to occupy the shelters.

(3) Lavatories or equivalent units shall be provided in a ratio of 1 per 15 employees or fraction thereof. In a multiple use lavatory, 24 linear inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory.

(4) Laundry facilities supplied with hot and cold water under pressure and facilities for drying clothes or laundry service, shall be provided for the use of all employees.

(h) *Heating.* (1) All living quarters and service rooms shall be provided with operable heating equipment capable of maintaining a temperature of at least 68° F. if during the period of normal occupancy the temperature in such quarters falls below 68° F.

(2) Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases. No portable heaters other than those operated by electricity shall be permitted. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, in-

sulated metal sheet, or other fire resistant, material on the floor under each stove, extending at least 18 inches beyond the perimeter of the base of the stove.

(3) Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stovepipe shall be of fire resistant material. A vented metal collar shall be installed around a stovepipe, or vent passing through a wall, ceiling, floor or roof of combustible material.

(4) When a heating system has automatic controls, the controls shall be of the type which cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

(i) *Electricity and lighting.* (1) Unless the community is not served by electricity, each habitable room and all common use rooms, and areas such as laundry rooms, toilets, hallways, stairways, etc., shall contain lighting from ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.

(2) Where the community is not served by electricity, other means of lighting shall be provided in those areas specified in subparagraph (1) of this paragraph.

(3) Lighting shall be provided for pathways to common use facilities.

(4) All wiring and lighting fixtures shall be installed and maintained in accordance with Subpart S of this Part.

(j) *Refuse disposal.* (1) Fly-tight, rodent-tight, impervious, cleanable or single service containers shall be provided for the storage of garbage. At least one such container shall be provided for each shelter.

(2) Garbage containers shall be emptied when they are full, but not less than twice a week while in use and shall, when emptied, be cleansed of any solid or liquid waste materials that adhere to the container surfaces.

(k) *Toilet facilities.* (1) Toilet facilities shall be provided in accordance with the requirements of this paragraph.

(2) Toilet rooms shall have a window opening directly to the outside area or otherwise be ventilated. No water closet, chemical toilet, or urinal shall be located in a room used for other than toilet or washing purposes.

(3) No privy (nonwater carriage toilet room) shall be closer than 100 feet to any sleeping room, dining room, lunch area, or kitchen.

(4) Where the toilet facilities are shared, such as in multi-family shelters and in barracks type facilities, they shall be kept in a sanitary condition, cleaned at least daily and supplied with toilet paper. Separate toilet rooms shall be provided in such shared facilities for each sex, except as provided in subparagraph (5) of this paragraph. These rooms shall be distinctly marked "men" or "women" by signs printed in English and in the native language of the employees expected to occupy the shelters, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

(5) Toilet facilities, shall be provided in accordance with Table J–1 of § 1910.141. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one employee at a time, can be locked from the inside, and contain at least one water closet or nonwater carriage facility, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of Table J–1.

(6) Urinals, constructed of nonabsorbent materials, may be substituted for men's toilet seats on the basis of one urinal or 24 inches of trough-type urinal for one toilet seat up to a maximum of one-third of the required toilet seats.

(l) *Cooking and eating facilities.* (1) When employees are permitted or required to cook in their individual shelter, a space shall be provided and equipped for cooking and eating. Such space shall be provided with:

(i) A cookstove or hot plate;

(ii) Food storage shelves and a counter for food preparation;

(iii) Provisions for refrigeration to maintain food at a temperature of not more than 45° F; and

(iv) A table and chairs or equivalent seating and eating arrangements to accommodate the number of employees living in the shelter.

(2) When employees are permitted or required to cook and eat in a common facility, a room or building separate from the sleeping facilities shall be provided for cooking and eating. Such room or building shall be provided with:

(i) Stoves or hot plates:

(ii) Adequate food storage shelves and a counter for food preparation;

(iii) Refrigeration to maintain food at a temperature of not more than 45° F;

(iv) Tables and chairs or equivalent seating to accommodate the number of employees intending to use the facility at any one time;

(v) Sinks and hot and cold water under pressure; and

(vi) Floors shall be of nonabsorbent materials.

(m) *Construction and operation of kitchens, dining hall, and feeding facilities.* (1) In all housing sites where central dining or multiple feeding operations are permitted or provided, the food handling facilities and operations shall be carried out in accordance with sound hygienic principles. The food dispensed shall be wholesome, free from spoilage, and shall be processed, prepared, handled, and stored in such a manner as to be protected against contamination.

(2) A kitchen and dining hall, separate from the sleeping quarters of the employees, shall be provided in connection with all food handling facilities.

(3) No person with any communicable disease shall be employed or permitted to work in the preparation, cooking, serving, or other handling of food, foodstuffs, or materials used therein, in any kitchen or dining room operated in connection with a housing site.

(n) *First aid.* First aid facilities shall be provided in accordance with the requirements of paragraph (b) of §1910.151.

(o) *Reporting communicable disease.* (1) It shall be the duty of the employer to report immediately to the local health officer the name and address of any individual in the housing site known to have or suspected of having a communicable disease.

(2) Whenever there shall occur in any housing site a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the employer to report immediately the existence of the outbreak to the health authority by telegram or telephone.

(3) A plan of communication shall be arranged to provide emergency medical service on a 24-hour basis.

(4) Instructions for the use of this plan of communication, including if appropriate, telephone numbers for emergency services, shall be posted at the site in English and in the common language of the employees expected to occupy the housing site.

(p) *Fire protection.* (1) Fires are prohibited in the housing site, except in equipment specifically designed for such purposes.

(2) No stove or combustion heater shall be located so as to block escape from a shelter.

(3) All housing sites shall be equipped with a means of arousing the employees in the event of danger from fire or other emergency.

(4) A portable or fixed fire suppression system in accordance with Subpart L of this Part shall be provided for all shelters.

(q) *Means of egress.* All shelters shall be provided with means of egress in accordance with the provisions of Subpart E of this Part.

(Sec. 6(b), Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655), Secretary of Labor's Order No. 12–71 (36 FR 8754))

Signed at Washington, D.C. this 16th day of September 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74–21986 Filed 9–20–74;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

### [ 20 CFR Part 416 ]

[Regs. No. 16]

### SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

### Reopening of Determinations and Decisions

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C.

553) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide policies and procedures with respect to the reopening of determinations or decisions under the Supplemental Security Income program.

The rules set forth in the proposed regulations will be applied by the Social Security Administration in order to administer the Supplemental Security Income program during the period from January 1, 1974, when the new program became effective, until the regulations are finally adopted.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 23, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102, and 1631, 49 Stat. 647, as amended, 86 Stat. 1476, 42 U.S.C. 1302, 1383.

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

Dated: September 2, 1974.

J. B. CARDWELL,
*Commissioner of Social Security.*

Approved: September 13, 1974.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding to Subpart N new §§ 416.1475–416.1487 to read as follows:

**Subpart N—Determinations, Reconsiderations, Hearings, Appeals, and Judicial Review**

Sec.



**§ 416.1475 Reopening and revision for error or other reason; time limit generally.**

(a) *Initial, revised, or reconsidered determination.* An initial, revised, or reconsidered determination (see § 416.1403 and § 416.1416) may be reopened and revised by the Administration on its own motion or upon the petition of any party for such reasons and within such time periods as prescribed in § 416.1477.

(b) *Decision or revised decision of a presiding officer or the Appeals Council.* Either upon the motion of the presiding officer or the Appeals Council, or upon the petition of any party to a hearing, any decision of a presiding officer as prescribed in § 416.1457 or any revised decision of a presiding officer may be reopened and revised by such presiding officer, or by another presiding officer if the presiding officer who issued the decision is unavailable, or by the Appeals Council for such reasons and within such time periods as prescribed in § 416.1477. Any decision of the Appeals Council provided for in § 416.1469 or any revised decision of the Appeals Council, may be reopened and revised by the Appeals Council for such reasons and within such time periods as prescribed in § 416.1477. For purposes of this paragraph (b), a presiding officer shall be considered to be unavailable, if among other circumstances, such presiding officer has died, terminated his employment, is on leave of absence, has been transferred to another official station, or is unable to conduct a hearing because of illness.

**§ 416.1477 Reopening initial, revised, or reconsidered determinations of the Administration, and decisions or revised decisions of a presiding officer or the Appeals Council; finality of determinations and decisions.**

An initial, revised, or reconsidered determination of the Administration or a decision or revised decision of a presiding officer or of the Appeals Council which is otherwise final under § 416.1405, § 416.1423, § 416.1458, or § 416.1470 may be reopened:

(a) Within 12 months from the date of the notice of the initial determination (see § 416.1404), to the party to such determination, or

(b) After such 12-month period, but within 2 years from the date of the notice of the intial determination to the party to such determination, upon a finding of good cause for reopening such determination or decision, or

(c) At any time when such initial, revised, or reconsidered determination or decision or revised decision was procured by fraud or similar fault of the claimant or some other person.

**§ 416.1479 Good cause for reopening a determination or decision.**

"Good cause" for reopening a determination or decision shall be deemed to exist where:

(a) A clerical error has been made or there is an error on the face of the evidence on which such determination or decision is based, or

(b) New and material evidence is furnished after notice to the party to the initial determination.

**§ 416.1481 Change of ruling or legal precedent.**

"Good cause" shall be deemed not to exist where the sole basis for reopening the determination or decision is a change of legal interpretation or administrative ruling upon which such determination or decision was made.

**§ 416.1483 Notice of revision.**

(a) When any determination or decision is revised, as provided in § 416.1475, notice of such revision shall be mailed to the parties to such determination or decision at their last known addresses and to their representatives. The notice of revision which is mailed to the parties shall state the basis for the revised determination or decision.

(b) Where an initial or reconsidered determination is revised and such revised determination involves an adverse action, other than cessation of disability due to medical improvement, which requires advance notice and continuation of payments in accordance with § 416.1336, the notice of revision shall inform the parties of their right to reconsideration as provided in § 416.1408 and § 416.1419(a).

(c) Where an initial or reconsidered determination is revised and such revised determination does not involve an adverse action which requires advance notice and continuation of payments, or such revised determination involves cessation of disability due to medical improvement which requires advance notice and continuation of payments, the notice of revision shall inform the parties of their right to a hearing as provided in § 416.1425.

(d) Where a presiding officer or the Appeals Council proposes to revise a decision and the revision would be based on evidence theretofore not included in the record on which the decision proposed to be revised was based, the parties shall be given notice of the proposal of the presiding officer or the Appeals Council, as the case may be, to revise such decision, and unless hearing is waived, a hearing with respect to such proposed revision shall be granted as provided in this Subpart N. A revised decision of a presiding officer or the Appeals Council, as the case may be, shall be rendered on the basis of the entire record, including additional evidence. If the decision is revised by a presiding officer, any party thereto may request review by the Appeals Council (see § 416.1461) or the Appeals Council may review the decision on its own motion (see § 416.1463).

(e) Where a presiding officer, in connection with a valid request for hearing, proposes to reopen an issue other than the one on which the request for hearing is based, he must provide notice in accordance with § 416.1434(b) and such action must be initiated within the time limits prescribed in § 416.1477.

**§ 416.1485 Effect of revised determination or decision.**

The revision of a determination or decision shall be final and binding upon all parties thereto unless a party to the determination or decision authorized to do so in accordance with § 416.1483 files a written request for reconsideration (see § 416.1483(b)) or a hearing with respect to a revised determination in accordance with § 416.1487 or a revised decision is reviewed by the Appeals Council as provided in § 416.1465 or such revised determination or decision is further revised in accordance with § 416.1475 and § 416.1477.

**§ 416.1487 Time and place of requesting reconsideration or hearing on revised determination.**

The request for reconsideration or hearing shall be made in writing and filed at an office of the Administration, or with a presiding officer, or the Appeals Council, within 30 days after notice of the Administration's revised determination is received by a party to such determination. Upon the filing of such request, the reconsideration or hearing with respect to such revision shall be processed and a determination or decision made in accordance with the provisions of § 416.1416 or § 416.1457, respectively.

[FR Doc.74-21993 Filed 9-20-74;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### [ 49 CFR Part 571 ]

[Docket No. 74-33; Notice 1]

### FEDERAL MOTOR VEHICLE SAFETY STANDARDS

### Protection From Steering Control System

This notice proposes an amendment of Standard No. 203, *Impact protection from the steering control system*, 49 CFR §571.203, that would exclude some passenger cars which meet the frontal barrier crash requirements of Standard No. 208, *Occupant crash protection*, from the steering control systems impact requirements of Standard No. 203.

Standard No. 203 limits the amount of force which would be experienced by a driver's torso in an impact with the steering control system of a passenger car. Standard No. 208's frontal barrier crash requirement (S5.1) limits the amount of acceleration experienced by an occupant's torso (upper thorax) at any vehicle speed up to 30 mph in an impact with a fixed barrier. This level of protection is at least equivalent to that of the 15-mile-per-hour body impact of Standard No. 203.

Standard No. 208's broadly stated performance requirements permit the vehicle manufacturer to moderate these impact forces by any design he chooses. General Motors has developed an air cushion restraint system to meet S5.1 that is mounted in the steering control system at the driver's position. In modifying the steering control system to incorporate the cushion device and to accept the higher loads which would be exerted on it in the event of a crash, the steering system's structure is strengthened and its energy absorbing characteristics and mass are increased. These changes in the steering control make its conformity with Standard No. 203 difficult and in some cases impossible. General Motors has petitioned to exempt passenger cars which conform to S5.1 from Standard No. 203 on the grounds that the latter has become redundant and design restrictive in the development of their crash-deployed restraint system.

The occupant protection requirements of S5.1 alone are designed to provide adequate protection to the driver from impact forces. In the case of an air cushion restraint system, this protection level must be met by the uncushioned steering control system below the system's deployment level and by the cushion system above the deployment level. Redundant protection does not appear justified in this case where it directly interferes with development of a more advanced, convenient, and effective restraint system. For crash-deployed restraint systems, therefore, the GM petition appears to have merit.

The proposed exemption would extend only to vehicles equipped with restraint systems other than safety belt assemblies. The NHTSA cannot propose elimination of redundant protection in belt-equipped vehicles at this point. Although advanced passive belt systems show promise of close to 100 percent usage, actual experience with these systems is insufficient to justify an exemption from Standard No. 203. As long as it can be expected that a significant number of belt systems will be defeated, the redundant protection of Standard No. 203 should remain available to occupants. In any case, the steering control system requirements do not interfere with design of belt restraint systems.

The proposed effective date of the amendment would be the date of publication of the final rule, because the proposed exclusion does not create any additional burden on manufacturers.

In consideration of the foregoing, it is proposed that the paragraph S3. (Application) in Standard No. 203 (49 CFR § 571.203) be amended to read as follows:

S3. *Application.* This standard applies to passenger cars. However, it does not apply to vehicles that conform to the frontal barrier crash requirements (S5.1) of Standard No. 208 (§ 571.208) by means other than seat belt assemblies.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: November 22, 1974.

Proposed effective date: Date of publication of the final rule.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on September 18, 1974.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.74-21989 Filed 9-20-74;8:45 am]

### [ 49 CFR Part 571 ]

[Docket No. 74-1; Notice 2]

### FEDERAL MOTOR VEHICLE SAFETY STANDARDS

### Proposed Safety Standard for Power-Operated Window Systems

This notice proposes an amendment of 49 CFR 571.118, Motor Vehicle Safety Standard No. 118, *Power-Operated Window Systems*, that would permit operation of power windows under certain circumstances even though the ignition is not in the "on" position.

The agency proposed on January 10, 1974 (39 FR 1517) that a power-operated window could be movable "if a door does not have a frame that meets the upper edge of the window in its closed position, by activation of a switch that is separated from the normal power window switch and energized only when the door locking mechanism is completely disengaged from the door lock striker."

American Motors in responding to the notice expressed its opinion that a hazardous situation could still result when the door locking mechanism was disengaged from the striker, if the door had not opened far enough to remove its window in a fully raised position from the vicinity of the roof rail, and was prevented from opening further by an obstruction such as an adjoining vehicle. American Motors suggested a minimum distance of 6 to 8 inches between the trailing edge of the raised window and

the roof rail, equivalent to a child's head diameter, before the window could be moved without the ignition key in the "on" position. The NHTSA believes that this comment has merit. It is therefore amending its prior proposal to specify that the auxiliary window switch may be "energized only when its door is open wide enough to permit a ball 8 inches in diameter to pass between the top trailing edge of the window in its fully raised position, and the vehicles roof rail."

In consideration of the foregoing, it is proposed that in 49 CFR 571.118, S3 be revised to read as follows:

**§ 571.118 Motor Vehicle Safety Standard No. 118; power-operated window systems.**

* * * * *

S3. *Requirements.* When the key that controls activation of the vehicle's engine is in an off position or is removed from the lock, no power-operated window or partition shall be movable except—

(a) By muscular force, unassisted by a power source within the vehicle;

(b) Upon activation by a key-locking system on the exterior of the vehicle or;

(c) If a door does not have a frame that meets the upper edge of the window in its closed position, by activation of a switch that is separate from the normal power window switch and energized only when the door is open wide enough to permit a ball 8 inches in diameter to pass between the top trailing edge of the window, in its fully raised position, and the vehicle's roof rail.

* * * * *

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible comments filed after the closing date will be also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: October 23, 1974.

Proposed effective date: Thirty days after publication of final rule in the FEDERAL REGISTER.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on September 18, 1974.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.74–21990 Filed 9–20–74;8:45 am]

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[Docket No. 73–3; Notice 2]

## [49 CFR Part 571]

## SCHOOL BUS PASSENGER CRASH PROTECTION

### Proposed Federal Motor Vehicle Safety Standard; Extension of Comment Period

A second notice proposing a new motor vehicle safety standard, "School bus passenger seating and crash protection," was published on July 30, 1974 (39 FR 27585).

The announced closing date for comments on this proposal was September 24, 1974. After considering petitions for an extension of this deadline by the School Bus Manufacturers Institute and the Motor Vehicle Manufacturers Association, NHTSA hereby extends the comment closing date until October 24, 1974.

In granting this limited extension the NHTSA wishes to emphasize the importance it attaches to issuing a final rule in time to maintain its proposed effective date of January 1, 1976. There has been much public interest and numerous expressions of Congressional opinion on school bus passenger crash protection. The NHTSA expects to issue a final rule promptly, and not to postpone the effective date. A longer comment period extension would jeopardize that effective date by shortening lead times for affected manufacturers.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on September 18, 1974.

ROBERT L. CARTER,
*Associate Administrator*
*Motor Vehicle Programs.*

[FR Doc.74–21965 Filed 9–20–74;8:45 am]

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# ACTION

## [45 CFR Part 1217]

## VISTA VOLUNTEER LEADER

### Proposed Designation Provisions

Notice is hereby given that the Director of ACTION proposes to amend amend Chapter XII of Title 45, Code of Federal Regulations, to add a new Part 1217. Pursuant to sections 105(a) and 420 of the Domestic Volunteer Service Act of 1973, Public Law 93–113, 87 Stat. 398 and 414, the proposed regulation provides for the designation of volunteer leaders for the VISTA volunteer program. Such leaders are designated after at least one year of service on the basis of experience and special skills and a demonstrated leadership among volunteers.

Inquiries may be addressed and comments and views concerning the proposed new part may be submitted to ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525, Attention: Associate Director for Domestic and Anti-Poverty Operaions. All comments received on or before October 21, 1974 will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to add a new Part 1217 to Chapter XII of Title 45 of the Code of Federal Regulations as follows:

## PART 1217—VISTA VOLUNTEER LEADER

Sec.



AUTHORITY: (Sections 104(b) and 420 of Pub. L. 93–113, 87 Stat. 398 and 414.)

**§ 1217.1 Introduction.**

Section 105(a)(1), Part A, of the Domestic Volunteer Service Act of 1973, P.L. 93–113, 87 Stat. 398, authorizes the Director of ACTION to pay VISTA volunteers a stipend not to exceed $50 per month and a stipend not to exceed $75 a month in the case of VISTA volunteers who have served for at least a year and have been designated volunteer leaders. Section 105(a)(1) further provides that the selection of volunteer leaders shall be pursuant to standards, established in regulations which the Director shall prescribe, which shall be based upon the experience and special skills and the demonstrated leadership of such persons among volunteers.

**§ 1217.2 Establishment of position.**

A request for the proposed establishment of VISTA volunteer leader position for a specific project shall be submitted by a sponsor in writing in advance to the appropriate ACTION Regional Director. Specific tasks, responsibilities, qualifications, and the proposed supervisory structure are to be detailed in the request.

**§ 1217.3 Qualifications.**

A volunteer recommended for a VISTA volunteer leader position must have:

(a) completed a one-year term as a VISTA volunteer.

(b) demonstrated ability to work constructively and communicate with volunteers, supervisor/sponsor, and the target population.

(c) demonstrated ability to work well with and gain acceptance of other volunteers.

(d) demonstrated ability to provide self-motivation and self-direction, and maturity to accept supervision and direction from supervisor/sponsor.

(e) sensitivity to the needs and attitudes of others, and exhibit a sincere commitment to the mission of VISTA.

**§ 1217.4 Selection procedure.**

(a) *Nomination.* Candidates may be nominated in writing to the Regional Di-

rector by the Program Officer or the State Program Director in whose area the volunteer serves. The nomination shall include a copy of the completed ACTION Form V–95a, for the Regional Director's review.

(b) *Selection.* VISTA volunteer leaders will be selected by the Regional Director (or his designee). The criteria for selection shall include:

(1) The recommendation of the volunteer by the State Program Director or Program Officer.

(2) An overall rating by the supervisor/sponsor of above average on the ACTION Form V–95a.

(3) A description of specific tasks, responsibilities, qualifications, and the proposed supervisory structure, which justifies the establishment of the VISTA volunteer leader position. A selection decision is final.

(c) *Reenrollment.* VISTA volunteer leaders may be reenrolled in accordance with the VISTA reenrollment and extension policy.

**§ 1217.5 Allowances and benefits.**

The VISTA volunteer leader shall be entitled to all allowances and benefits of a VISTA volunteer at the level which is consistent with the level for all volunteers on his/her project, except that:

(a) The stipend will be increased from $50 to $75 per month effective on the date of selection of the VISTA volunteer leader.

(b) Support for on-the-job transportation may be increased, consistent with ACTION policy.

**§ 1217.6 Roles of volunteers.**

VISTA volunteer leaders may have the following roles:

(a) Primary contact with VISTA volunteers on personal and administrative matters.

(b) Aid in communication of VISTA policies to VISTA volunteers.

(c) Encourage and develop VISTA volunteer leadership and initiative on projects.

(d) Aid as a resource in development and conduct of training programs.

(e) Assist sponsor in preparation for arrival of VISTA volunteers, and assist new volunteers in settling-in, housing, orientation, etc.

(f) Aid in the development of meaningful relationship and understanding of individual program concepts with VISTA volunteers and supervisor/sponsor.

(g) Advise supervisor on potential problem areas, and needs of VISTA volunteers.

(h) Aid supervisor/sponsor in the redevelopment of projects to best meet goals and objectives addressing the community's problem(s).

Issued in Washington, D.C. on September 17, 1974.

MICHAEL P. BALZANO, Jr.,
*Director, ACTION.*

[FR Doc.74–21952 Filed 9–20–74;8:45 am]

## [45 CFR Part 1219]

## COMPETITIVE SERVICE ELIGIBILITY

### Proposed Policy Provisions

Notice is hereby given that the Director of ACTION proposes to amend the Code of Federal Regulations to add a new Part 1219. This Part implements section 415(d) of the Domestic Volunteer Service Act of 1973, Public Law 93–113, 87 Stat. 412. It provides ACTION policy as to which VISTA Volunteers have successfully completed their periods of service so as to be eligible for appointment in the Federal competitive service in the same manner as Peace Corps Volunteers as prescribed in Executive Order No. 11103 (April 10, 1963).

Inquiries may be addressed and comments and views concerning the proposed new Part may be submitted to ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525, Attention: Associate Director for Domestic and Anti-Poverty Operations. All comments received on or before October 21, 1974, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to add a new Part 1219 to Chapter XII of Title 45 of the Code of Federal Regulations as follows:

### PART 1219—COMPETITIVE SERVICE ELIGIBILITY

Sec.
1219.1 Introduction.
1219.2 Policy.
1219.3 Procedure.

AUTHORITY: (Sections 415(d) and 420 of Public Law 93–113, 87 Stat. 412 and 414.)

**§ 1219.1 Introduction.**

Section 415(d), Title IV, of the Domestic Volunteer Service Act of 1973, Public Law 93–113, 87 Stat. 412, provides that VISTA Volunteers who have successfully comleted their period of service shall be eligible for apointment in the Federal competitive service in the same manner as Peace Corps Volunteers as prescribed in Executive Order No. 11103 (April 10, 1963). This section further provides that the Director of ACTION shall determine who has successfully completed his period of service in accordance with regulations he shall prescribe.

**§ 1219.2 Policy.**

Certificates of satisfactory service for the purpose of this order shall be issued only to persons who have completed at least one full year of service as a full-time Volunteer under Part A of Title I of the Domestic Volunteer Service Act of 1973 (or Title VIII of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2991–2994d), and who have not been terminated for cause.

**§ 1219.3 Procedure.**

(a) The Deputy Associate Director for VISTA and Anti-Poverty Programs will ensure that each eligible VISTA Volunteer is promptly notified of his eligibility for competitive service, prior to the completion of his service.

(b) The Deputy Associate Director for VISTA and Anti-Poverty Programs (or his designee) shall, upon the request of a duly recognized representative of any agency in the Executive Branch, certify the VISTA Volunteer's service on ACTION Form A–507.

Issued in Washington, D.C. on September 17, 1974.

MICHAEL P. BALZANO, Jr.,
*Director, ACTION.*

[FR Doc.74–21953 Filed 9–20–74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

## [40 CFR Part 52]

[FRL 265–6]

## IOWA

### Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards. The State of Iowa submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the States. Therefore, the Administrator proposes the approval of the compliance schedules listed below.

The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules, and have been reviewed and determined to be consistent with the approved control strategies of Iowa. Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the Federally approved State implementation plan. This date is indicated in the table below, under the heading "Final Compliance Date". In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

Under Iowa law, the compliance schedule is not enforceable after the date on which the associated variance expires and variances cannot extend for more than one year. Therefore, to the extent that the schedules extend past the variance expiration date, they are not legally enforceable at this time. For this reason, EPA's approval of each compliance

schedule will be unconditional only as to that part of the schedule covered by the initial variance. Approval of the remainder of the schedule will be conditioned upon the State's renewal of the variance in identical form and substance to that included in the schedule submitted to the Environmental Protection Agency and approved herein. If the variance is renewed in this manner, the condition precedent will be satisfied and the approval of the next segment of the schedule would not require further action by the State or this Agency. If the variance is not renewed, or is modified from the version that had been Federally approved, the condition will not be fulfilled, the approval of the remainder of the schedule would not be effective, and the State's immediately-effective regulation would again become Federally enforceable.

Provisional approval of final compliance dates and extensions of variances is justifiable only because of the one-year variance limitation in the law of Iowa. Since there will be no substantive changes in the schedules set forth below and public hearings were held on the complete schedule, there is no reason to require compliance with 40 CFR 51.6 procedures at the time Iowa renews each variance. The schedules were immediately effective on the date of adoption. An Effective Date is not indicated on the table. The Variance Expiration Date is included instead. One schedule appeared in the November 27, 1973 FEDERAL REGISTER as Chariton Valley Foundry, Centerville. The company has subsequently been renamed and appears in this proposal as L. Benac and Son, Inc.

In the indication of proposed approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large numbers of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports and the compliance schedules proposed to be approved or disapproved are available for public inspection at the Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII office at the above address. All comments submitted on or before October 23, 1974 will be considered. Receipt of comments will be acknowledged but substantive responses will not be provided. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

(42 U.S.C. 1857c-5)

Dated: June 11, 1974.

JEROME H. SVORE,
*Regional Administrator.*

## Subpart Q—Iowa

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

§ 52.825 [Amended]

1. In § 52.825 the table in paragraph (c) is revised as follows:

§ 52.825 **Compliance Schedules.**

(c) * * *

IOWA

| Source | Location | Regulation involved | Date adopted | Variance expiration date | Final compliance date |
|---|---|---|---|---|---|
| * * * | * | * | * | * | * |
| Foote Mineral Co | Keokuk | | | | |
| (a) Kish handling at furnaces | | 4.3(2)a | Nov. 15, 1973 | Sept. 12 1974 | June 1, 1975 |
| (b) Furnaces Nos. 9 and 10 | | 4.4(5) | do | do | Do. |
| The Hubinger Co | Keokuk | | | | |
| (a) Boiler No. 9 | | 4.3(2)b | Sept. 13, 1973 | Nov. 15, 1974 | Do. |
| (b) Starch dryers Nos. 3 and 5 | | 4.4(7) | do | Sept. 1, 1974 | Sept. 1, 1974 |
| (c) "A" dryer | | 4.4(7) | do | June 15, 1974 | June 15, 1974 |
| (d) "B" dryer | | 4.4(7) | do | Oct. 1, 1974 | Oct. 1, 1974 |
| Keokuk Steel Casting | Keokuk | | | | |
| (a) Electric furnace | | 4.4(5) | Jan. 16, 1974 | Jan. 16, 1975 | June 1, 1975 |
| (b) Rotary screen | | 4.3(2)c | do | do | Do. |
| (c) Shakeout area | | 4.3(2)d | do | do | Do. |
| Midwest Carbide | Keokuk | | | | |
| Carbide furnace | | 4.3(2)a | Dec. 13, 1973 | Dec. 13, 1974 | Dec. 31, 1974 |
| Caradco window and door division (Scoville Manufacturing Co.) | Dubuque | | | | |
| (a) Mill waste system | | 4.3(2)a | Apr. 11, 1974 | July 1, 1974 | July 1, 1974 |
| (b) Grinding system | | 4.3(2)a | do | Sept. 30, 1974 | Sept. 30, 1974 |
| The Celotex Corp. boiler | Dubuque | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | June 1, 1975 |
| John Deere Dubuque Tractor Works | do | | | | |
| (a) Cupolas Nos. 1, 2, and 3 | | 4.4(4) | May 10, 1973 | May 10, 1974 | Dec. 30, 1974 |
| (b) Oil core sand mixing | | 4.3(2)a | do | do | Aug. 31, 1974 |
| (c) Resin sand coating | | 4.3(2)a | do | do | Do. |
| R. S. Bacon Verneer Co | Dubuque | | | | |
| Teepee burner | | 4.4(12) | Apr. 11, 1974 | June 30, 1974 | June 30, 1974 |
| Dubuque Hardwoods | Dubuque | | | | |
| Teepee burner | | 4.4(12) | Aug. 16, 1973 | June 1, 1974 | June 1, 1974 |
| Tschiggfie Excavating | Dubuque | | | | |
| Asphalt concrete plant | | 4.4(2), 4.3(2)d | Feb. 14, 1974 | May 1, 1974 | May 1, 1974 |
| Aluminum Company of America | Davenport | | | | |
| (a) A-1 ingot plant holding furnace. | | 4.3(2)a | Aug. 16, 1973 | Aug. 16, 1974 | June 30, 1975 |
| (b) A-3 ingot plant rotary barrels | | 4.3(2)a | Sept. 13, 1973 | do | Mar. 1, 1975 |
| (c) A-5 ingot plant skimhouse | | 4.3(2)a | Aug. 16, 1973 | do | Do. |
| Nichols-Homshield, Inc | Davenport | | | | |
| Secondary aluminum furnace | | 4.3(2)a | Apr. 11, 1974 | July 31, 1974 | July 31, 1974 |
| Linwood Stove Products Co., Inc | Davenport | | | | |
| Kilns Nos. 1, 2, and 3 | | 4.48 | Apr. 11, 1974 | Sept. 1, 1974 | Sept. 1, 1974 |
| Kelsey-Hayes | Bettendorf | | | | |
| Boilers Nos. 1, 2, and 3 | | 4.3(2)b | Aug. 16, 1973 | July 15, 1974 | July 15, 1974 |
| Frank Foundries Corp. Cupola | Davenport | 4.4(4)a | Apr. 11, 1974 | Apr. 30, 1974 | Apr. 30, 1974 |
| Clinton Corn Processing Co | Clinton | | | | |
| (a) Raymond Dryers Nos. 1 and 3. | | 4.4(7) | Oct. 11, 1973 | Apr. 15, 1974 | Apr. 15, 1974 |
| (b) Raymond Dryers Nos. 2 and 4. | | 4.4(7) | do | Nov. 15, 1974 | Dec. 31, 1974 |
| (c) Heil Dryers Nos. 1, 2, 3, 4, and 5. | | 4.4(7) | do | do | June 1, 1975 |
| (d) Louisville Germ Dryers Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 22, 23, and 24. | | 4.4(7) | do | June 15, 1974 | June 15, 1974 |
| (e) Herreshoff Multihearth Furnace. | | 4.3(2)a | Jan. 16, 1974 | July 1, 1974 | July 1, 1974 |
| International Multifoods | Davenport | | | | |
| Elevator System E-3 | | 4.4(7) | Mar. 8, 1973 | Nov. 30, 1974 | Nov. 30, 1974 |
| Sivyer Steel Casting Co | Bettendorf | | | | |
| Shakeout Area for Furnaces | | 4.3(2)a, 4.3(2)d. | July 12, 1973 | July 12, 1974 | Dec. 31, 1974 |
| Alloy Metal Products, Inc | Davenport | | April 11, 1974 | July 15, 1974 | June 1, 1975 |
| Electric Arc Furnace | | 4.3(2)a, 4.3(2)d. | | | |
| Grain Processing Corp | Muscatine | | | | |
| (a) Dryer No. 40 | | 4.4(6), 4.3(2)d. | June 14, 1973 | June 15, 1974 | Sept. 15, 1974 |
| (b) Dryers Nos. 43 and 46 | | 4.4(6), 4.3(2)d | do | do | June 15, 1975 |
| The Pillsbury Co | Council Bluffs | | | | |
| Grain Elevator (Cyclones) | | 4.4(7) | Nov. 15, 1973 | Nov. 1, 1974 | Nov. 1, 1974 |
| Sheldon Dehydrating Co | Sheldon | | | | |
| Alfalfa dehydrating plant | | 4.3(2)a | April 11, 1974 | Aug. 1, 1974 | Aug. 1, 1974 |
| Iowa Electric Light and Power Co | Cedar Rapids | | | | |
| Sixth Street Station | | | | | |
| Boilers Nos. 1 and 2 | | § 26.07 | Sept. 21, 1973 | Note 1 | June 1, 1975 |
| Iowa Electric Light and Power Co | Cedar Rapids | | | | |
| Prairie Creek Station | | | | | |
| Boiler No. 4 | | § 26.07 | Sept. 21, 1973 | do | Feb. 1, 1975 |
| Cargill Corn Starch and Syrup Co | Cedar Rapids | | | | |
| 16th Street, Southeast Plant | | | | | |
| (a) Germ aspiration sytem | | § 26.09 | Dec. 21, 1973 | do | July 1, 1974 |
| (b) Aspiration system in Millhouse. | | § 26.09 | do | do | Do. |
| (c) Starch storage bins Nos. 7 and 8. | | § 26.09 | do | do | Apr. 1, 1974 |
| (d) HCl storage tank vent | | § 26.09 | do | do | Oct. 1, 1974 |
| (e) Fiber dryer | | § 26.09 | do | do | June 15, 1974 |
| (f) Gluten dryer | | § 26.09 | do | do | Do. |
| (g) P and S dryers Nos. 1 and 2 | | § 26.09 | do | do | Oct. 1, 1974 |
| Cargill, Inc | Cedar Rapids | | | | |
| 411 6th Street N.E. Plant | | | | | |
| (a) Extraction feed aspiration | | § 26.09 | Jan. 2, 1974 | Note 1 | Mar. 1, 1975 |
| (b) Rail meal loading | | § 26.09 | do | do | July 30, 1975 |

| Source | Location | Regulation involved | Date adopted | Variance expiration date | Final compliance date |
|---|---|---|---|---|---|
| Cargill, Inc. | Cedar Rapids | | | | |
| 1010 10th Avenue S.W. Plant | | | | | |
| (a) Soybean Conditioning Cyclone. | | § 26.09 | Dec. 27, 1973 | Note 1 | July 1, 1975 |
| (b) Hull Grinding Cyclone | | § 26.09 | do | do | Do. |
| Penick and Ford, Ltd. | Cedar Rapids | | | | |
| (a) Heil dryer | | § 26.09 | Dec. 21, 1973 | do | Sept. 30, 1974 |
| (b) Dustex dust collector | | § 26.09 | do | do | Aug. 31, 1974 |
| (c) Heil dryer pickup ring dust collector. | | § 26.09 | do | do | Sept. 30, 1974 |
| (d) No. 3 blender dust collector | | § 26.09 | do | do | April 30, 1974 |
| Diamond V Mills, Inc. | Cedar Rapids | | | | |
| (a) Yeast culture (S-1) | | § 26.09 | Dec. 21, 1973 | do | Oct. 31, 1974 |
| (b) Grain storage bin (S-2) | | § 26.09 | do | do | Do. |
| (c) Grain storage bin (S-5) | | § 26.09 | do | do | Do. |
| (d) Yeast culture (S-7) | | § 26.09 | do | do | Do. |
| (e) Yeast load-out (S-8) | | § 26.09 | do | do | Mar. 31, 1974 |
| (f) Yeast load-out (S-9) | | § 26.09 | do | do | Do. |
| (g) Railroad unloading pit (S-10) | | § 26.09 | do | do | Apr. 30, 1974 |
| National Oats Co. | Cedar Rapids | | | | |
| (a) Building H | | | | | |
| (1) General suction system (S-52). | | § 26.09 | Dec. 26, 1973 | do | Aug. 11, 1974 |
| (2) Cooler (S-53) | | § 26.09 | do | do | Do. |
| (3) Aspiration system (S-55) | | § 26.09 | do | do | Do. |
| (b) Building A | | | | | |
| (1) Aspiration system GA (S-20, 27, 28, 29, 35, 36, 37, 38 and 39). | | § 26.09 | do | do | Do. |
| (c) Building A | | | | | |
| (1) Forsberg separators (S-8 and 47). | | § 26.09 | do | do | Nov. 30, 1974 |
| (2) Aspiration system 4A (S-24). | | § 26.09 | do | do | Do. |
| (3) Aspiration system 6A (S-45). | | § 26.09 | do | do | Do. |
| (d) Building A | | | | | |
| (1) Aspiration system 6A (S-7-1). | | § 26.09 | do | do | June 30, 1975 |
| (2) Suction systems (S-12-1 and 12-3). | | § 26.09 | do | do | Do. |
| (3) Aspiration system (S-12-4). | | § 26.09 | do | do | Do. |
| (e) Building H | | | | | |
| (1) Huller (S-12) | | § 26.09 | do | do | July 31, 1975 |
| (2) Midds recycle cyclone (S-11-1). | | § 26.09 | do | do | Do. |
| (f) Building G | | | | | |
| (1) Forsberg separators (S-55 and 56). | | § 26.09 | do | do | Do. |
| (g) Building A | | | | | |
| (1) Indented cylinder separator (S-12). | | § 26.09 | do | do | Do. |
| (2) Separating tables (S-11) | | § 26.09 | do | do | Do. |
| (3) Aspiration system | | § 26.09 | do | do | Do. |
| John Deere Waterloo Tractor Works. | Waterloo | | | | |
| (a) Cupolas Nos. 1, 2, 4, 7, and 8 | | 4.4(4)a | Dec. 13, 1973 | Sept. 30, 1974 | Sept. 30, 1974 |
| (b) Boiler No. 5 | | 4.3(2)b(2) | Nov. 15, 1973 | Nov. 1, 1973 | April 30, 1975 |
| (c) Boiler No. 6 | | 4.3(2)b(2) | do | do | Nov. 1, 1974 |
| Cedar Falls Utilities Boiler No. 6 | Cedar Falls | 4.3(2)b | Dec. 13, 1973 | April 1, 1974 | April 1, 1974 |
| Interstate Power Co. Boiler No. 3 | Lansing | 4.3(2)b | May 10, 1973 | June 30, 1974 | June 30, 1974 |
| Corn Belt Power Corp. | Humboldt | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | Mar. 31, 1975 |
| Iowa Electric Light and Power Co. | Iowa Falls | | | | |
| Boilers Nos. 3 and 4 | | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | June 1, 1975 |
| National Gypsum Co. | Fort Dodge | | | | |
| Stucco silos, screw conveyors and Perlite system (Phase III). | | 4.3(2)a | Aug. 16, 1973 | June 1, 1974 | June 1, 1974 |
| Green Products Co. | Conrad | | | | |
| Alfalfa dehydrating plant | | 4.3(2)a | Dec. 13, 1973 | Dec. 13, 1974 | Apr. 20, 1975 |
| Corn Belt Power Corp. | Spencer | | | | |
| Boiler No. 1 | | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | Mar. 31, 1975 |
| Iowa Valley Milling Co. | West Branch | | | | |
| Alfalfa dehydrating plant | | 4.3(2)a | Feb. 14, 1974 | Feb. 14, 1975 | May 1, 1975 |
| Carter-Waters Corp., kilns | Centerville | 4.3(2)a | Aug. 16, 1973 | Aug. 16, 1974 | June 1, 1975 |
| Iowa State University | Ames | | | | |
| (a) Boiler No. 1 | | 4.3(2)b | Jan. 16, 1974 | May 31, 1974 | May 31, 1974 |
| (b) Boiler No. 2 | | 4.3(2)b | do | Apr. 30, 1974 | Apr. 30, 1974 |
| (c) Boiler Nos. 3 and 4 | | 4.3(2)b | do | May 31, 1974 | May 31, 1974 |
| (d) Boiler No. 5 | | 4.3(2)b | do | July 31, 1974 | July 31, 1974 |
| (e) Boiler No. 6 | | 4.3(2)b | do | June 30, 1974 | June 30, 1974 |
| Iowa Electric Light and Power Co. | Marshalltown | | | | |
| (a) Boiler No. 1 | | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | June 1, 1975 |
| (b) Boiler No. 2 | | 4.3(2)b | do | do | Do. |
| (c) Boiler No. 3 | | 4.3(2)b | do | do | Mar. 1, 1975 |
| L. Benac and Son, Inc. (formerly Chariton Valley Foundry). | Centerville | | | | |
| Cupola | | 4.4(4), 4.3(2)a. | Apr. 11, 1974 | Aug. 15, 1974 | Aug. 15, 1974 |
| Long Farms, Inc. | Grinnell | | | | |
| Alfalfa dehydrating plant | | 4.3(2)a | Dec. 13, 1973 | June 15, 1974 | June 15, 1974 |
| Iowa Electric Light and Power Co. | Boone | | | | |
| Boilers Nos. 1 and 2 | | 4.3(2)b | Aug. 16, 1973 | Aug. 16, 1974 | June 1, 1975 |
| Progressive Foundry, Inc. | Perry | | | | |
| Cupola | | 4.4(4) | Nov. 16, 1973 | Oct. 30, 1974 | Oct. 30, 1974 |
| Central Iowa Power Coop. | Creston | | | | |
| Boiler No. 3 | | 4.3(2)b | July 12, 1973 | July 12, 1974 | June 1, 1975 |

NOTE 1.—Linn County Health Department does not issue variances if source(s) is on an approvable compliance schedule.

[FR Doc.74-21805 Filed 9-20-74;8:45 am]

## [40 CFR Part 52]

[FRL 265-7]

## MISSOURI

### Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards. The State of Missouri submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the states. Therefore, the Administrator proposes the approval and disapproval of the compliance schedules listed below.

The approvable schedules were adopted by the States and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules, and have been reviewed and determined to be consistent with the approved control strategies of Missouri. Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitations in the Federally approved State implementation plan. This date is indicated in the table below under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

Disapproval of certain schedules is proposed because of failure to comply with the substantive requirements relating to compliance schedules in 40 CFR 51.15. These schedules do not contain a firm compliance date as required by § 51.15(a). If the State-submitted schedules are disapproved, the air pollution sources involved would continue to remain subject to the immediately-effective compliance dates set by applicable State regulations in the Federally-approved State implementation plan.

In the indication of proposed approval or disapproval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large numbers of compliance schedules preclude setting forth detailed reasons for approval or disapproval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports and the compliance schedules proposed to be approved or disapproved are available for public inspection at the Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII office at the above address. All comments submitted on or before October 23, 1974 will be considered. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

(42 U.S.C. 1857c-5)

Dated: June 11, 1974.

JEROME H. SVORE,
*Regional Administrator.*

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

## Subpart AA—Missouri

### § 52.1335 [Amended]

1. In § 52.1335, the tables in paragraph (a) are amended as follows:

MISSOURI

| Source | Location | Regulation involved | Date adopted | Variance expiration date | Final compliance date |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| U.S. Steel (Universal Atlas Cement), rotary cement kiln. | Hannibal | S-V, S-VIII | Jan. 23, 1974 | July 31, 1974 | July 31, 1974 |
| Kaiser Refractories | Mexico | | | | |
| Rotary Kiln No. 1 | | S-V, S-VIII | Feb. 28, 1973 | Jan. 18, 1974 | Jan. 18, 1974 |
| Rotary Kiln No. 2 | | do | Jan. 23, 1974 | July 18, 2974 | July 18, 1974 |
| St. Joseph Light and Power | St. Joseph | | | | |
| Boiler No. 1 | | Note 2 | Jan. 23, 1974 | Jan. 23, 1975 | May 31, 1975 |
| Boiler No. 2 | | do | do | do | Do. |
| Boiler No. 3 (1 variance granted) | | do | do | do | Do. |
| Boiler No. 4 | | do | do | do | Do. |
| Boiler No. 5 | | do | do | do | Do. |
| Boiler No. 6 | | do | do | do | Do. |
| A.P. Green Refractories | Mexico | | | | |
| Rotary calcining kiln | | S-V, S-VIII | Mar. 27, 1974 | Mar. 27, 1975 | Do. |
| Vibrating grate dryer | | do | do | do | Do. |
| A. P. Green Refractories, rotary calcining kiln. | Oran | do | do | do | June 15, 1975 |
| U.S. By-Products | Henrietta | | | | |
| Aluminum turnings operation | | Note 1 | Feb. 27, 1974 | Nov. 18, 1974 | Nov. 18, 1974 |
| Carbon waste disposal system | | do | do | do | Do. |
| Aluminum-foil drag kiln operation | | do | do | do | June 6, 1974 |
| Harbison-Walker Refractories | Fulton | | | | |
| Rotary dryer | | S-V, S-VIII | Feb. 28, 1973 | Jan. 18, 1974 | June 1, 1973 |
| Rotary kiln | | do | Feb. 27, 1974 | June 30, 1974 | June 30, 1974 |
| Allied Chemical Corp. | Owensville | | | | |
| Crushers | | S-V, S-VIII | Mar. 27, 1974 | Oct. 1, 1974 | Oct. 1, 1974 |
| Rotary kiln stack | | do | do | do | Do. |
| Ball mill | | do | do | do | Do. |
| Silo vent system | | do | do | do | Do. |
| Rotary cooler vent system | | | | | |
| Franklin County Stone, limestone crusher. | Pacific | Note 3 | Aug. 23, 1972 | Aug. 24, 1973 | June 1, 1974 |
| ADM Milling | North Kansas City | | | | |
| 03 Mixers and bulk plant suction | | Note 4 | Jan. 10, 1974 | Jan. 10, 1974 | June 30, 1974 |
| 20 Bran grinders | | do | do | do | June 15, 1972 |
| 22 No. 4 screening grinders | | do | do | do | Dec. 1, 1972 |
| 18 Bulgur grinders | | do | do | do | Jan. 15, 1973 |
| 27 Elevator head suction | | do | do | do | Apr. 1, 1973 |
| 30 Top bolt suction | | do | do | do | May 1, 1973 |
| 16 A mill entoleter and break suction. | | do | Jan. 23, 1974 | July 1, 1974 | July 1, 1974 |
| 17 B R K suction B mill | | do | do | do | Do. |
| 19 B R K suction A mill | | do | do | do | Do. |
| 23 No. 8 millerators B mill | | do | do | do | Do. |
| 29 Bottom belt suction—new | | do | do | do | Mar. 29, 1974 |
| 28 Bottom belt suction—old | | do | do | do | Do. |
| Missouri Power and Light, Boiler Nos. 5 and 6. | Jefferson City | S-VI, S-VIII | Nov. 28, 1973 | Nov. 28, 1974 | Nov. 1, 1974 |
| CPC International, wet corn fed rotary dryers. | North Kansas City. | Note 5 | Jan. 23, 1974 | Apr. 25, 1974 | Oct. 31, 1974 |
| Gardner-Denver, cupola furnaces | La Grange | S-V | Feb. 27, 1974 | Feb. 14, 1974 | Feb. 14, 1974 |
| Mississippi Lime | Ste. Genevieve | | | | |
| Mississippi rotary plant: | | | | | |
| Kiln No. 1, No. 2, No. 3, and No. 4 and coolers. | | S-V | Feb. 27, 1974 | Feb. 27, 1974 | July 31, 1975 |
| Kiln No. 5 cooler | | do | do | do | June 30, 1975 |
| Kiln No. 6 cooler | | do | do | do | Mar. 7, 1975 |
| Kiln No. 7 cooler | | do | do | do | Nov. 15, 1974 |
| Kiln No. 8 cooler | | do | do | do | July 12, 1974 |
| Peerless rotary plant: | | | | | |
| Kiln No. 1 cooler | | do | do | do | Oct. 18, 1974 |
| Kiln No. 2 cooler | | do | do | do | Dec. 27, 1974 |
| Kiln No. 3 cooler | | do | do | do | Feb. 28, 1975 |
| Kiln No. 4 cooler | | do | do | do | Apr. 25, 1975 |
| Kiln No. 5 cooler | | do | do | do | June 27, 1975 |
| Kiln No. 6 cooler | | do | do | do | July 31, 1975 |
| 60" and 5' grinding mills | | do | do | do | July 1, 1974 |
| Henry Worst, Inc., lithograph presses | North Kansas City. | Note 6 | Jan. 23, 1974 | Nov. 20, 1074 | Nov. 20, 1974 |
| Armco Steel | Kansas City | | | | |
| Scarfing operation | | Note 10 | Oct. 10, 1973 | NA | Feb. 1, 1974 |
| Electric furnace | | do | do | NA | Do. |
| Quisenberry Mills, railcar unloading | Kansas City | Note 11 | do | NA | Dec. 31, 1973 |
| Clay-Bailey Manufacturing, cupola | do | Note 9 | Apr. 18, 1974 | NA | July 31, 1974 |
| Cargill, Inc., roof vents | do | Note 10 | Dec. 19, 1973 | NA | Mar. 15, 1974 |
| Ralston Purina, rail car unloading No. 6 and No. 7. | do | do | Oct. 10, 1973 | NA | May 31, 1974 |
| Kansas City Terminal Elevator No. 2, grain handling cyclones. | do | do | do | NA | Nov. 15, 1973 |
| GAF Corporation | Kansas City | | | | |
| Asphalt blowing | | Notes 10 and 7 | Mar. 28, 1974 | NA | June 30, 1974 |
| Asphalt saturating | | do | do | NA | Do. |
| Dry fines unloading | | Note 10 | Mar. 5, 1974 | NA | Oct. 1, 1974 |

| Source | Location | Regulation involved | Date adopted | Variance expiration date | Final compliance date |
|---|---|---|---|---|---|
| True Temper Corp., heat treating process. | Kansas City | Note 10 | Dec. 19, 1973 | NA | May 18, 1974 |
| Metallurgical, Inc, N-2 draw furnace | do | do | Oct. 10, 1973 | NA | Feb. 20, 1974 |
| Centropolis Crusher, rock pulverizing and drying. | do | Note 8 | Dec. 18, 1973 | NA | Sept. 5, 1974 |
| Bartlett and Company Grain, Missouri Pacific "B" elevator. | do | Note 10 | Nov. 29, 1973 | NA | Nov. 1, 1974 |
| Certain-Teed Products, limestone tank loading. | do | do | Dec. 26, 1973 | NA | July 8, 1974 |

1. Regulation IV, air pollution control regulations for Kansas City Metropolitan Area.
2. Regulation III and V air pollution control regulations for Kansas City Metropolitan Area.
3. Regulation IX, air pollution control regulations for St. Louis Metropolitan Area.
4. Regulation IV, air pollution control regulations for Kansas City Metropolitan Area.
5. Regulations V and VI, air pollution control regulations for the Kansas City Metropolitan Area.
6. Regulation V, air pollution control regulations for the Kansas City Metropolitan Area.
7. Section 18.86 (A), Kansas City air pollution control code.
8. Section 18.86 (A) and (C) and 18.87, Kansas City air pollution control code.
9. Section 18.86 (A)(3)(a)(i), Kansas City air pollution control code.
10. Section 18.87(A), Kansas City air pollution control code.
11. Sections 18.86(C)(1), and 18.87(A), Kansas City air pollution control code.

2. In § 52.1335, the table in paragraph (b) is amended as follows:

| Source | Location | Regulation involved | Date adopted |
|---|---|---|---|
| Union Electric, Electric generating facility | Labadie | X | Mar. 28, 1974 |
| Union Electric, Electric generating facility | Portage des Sioux | X | July 25, 1974 |

NOTE.—X—Air pollution control regulations for St. Louis Metropolitan Area.

[FR Doc.74-21804 Filed 9-20-74;8:45 am]

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## [ 40 CFR Part 52 ]

[FRL 265-8]

## MISSOURI

### Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards. The State of Missouri submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the States. Therefore, the Administrator proposes the approval and disapproval of the compliance schedules listed below.

The approvable schedules were adopted by the States and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6 and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Missouri. Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State implementation plan. This date is indicated in the table below under the heading "Final Compliance Date." In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While the tables below do not include these interim dates, the actual compliance schedules do.

Disapproval of the Kansas City Power and Light Company, Kansas City, schedule is proposed because of failure to comply with the substantive requirements relating to compliance schedules in 40 CFR 51.15. This schedule does not contain increments of progress or a firm compliance date as required by § 51.15 (a). If this State-submitted schedule is disapproved, the air pollution source involved would continue to remain subject to the immediately-effective compliance date set by applicable State regulations in the federally-approved State implementation plan.

In the indication of proposed approval or disapproval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large numbers of compliance schedules preclude setting forth detailed reasons for approval or disapproval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports and the compliance schedules proposed to be approved or disapproved are available for public inspection at the Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII office at the above address. All comments submitted on or before October 23, 1974 will be considered. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

(42 U.S.C. 1857c-5)

Dated: August 9, 1974.

JEROME H. SVORE,
*Regional Administrator.*

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

## Subpart AA—Missouri

§ 52.1335 [Amended]

1. In § 52.1335, the table in paragraph (a) is amended as follows:

MISSOURI

| Source | Location | Regulation involved | Date adopted | Effective date | Final compliance date |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| U.S. Steel (Universal Atlas Cement), rotary cement kiln. | Hannibal | S-V, S-VIII | Jan. 23, 1974 | Immediately | July 31, 1974 |
| Kaiser Refractories | Mexico | | | | |
| Rotary kiln No. 1 | | S-V, S-VIII | Feb. 28, 1973 | Immediately | Jan. 18, 1974 |
| Rotary kiln No. 2 | | do | Jan. 23, 1974 | do | July 18, 1974 |
| St. Joseph Light and Power | St. Joseph | | | | |
| Boiler No. 1 | | Note 1 | Jan. 23, 1974 | Immediately | May 31, 1975 |
| Boiler No. 2 | | do | do | do | Do. |
| Boiler No. 3 | | do | do | do | Do. |
| Boiler No. 4 | | do | do | do | Do. |
| Boiler No. 5 | | do | do | do | Do. |
| Boiler No. 6 | | do | do | do | Do. |
| A. P. Green Refractories, rotary calcining kiln. | Mexico | S-V, S-VIII | Mar. 27, 1974 | do | May 31, 1974 |
| A. P. Green Refractories, rotary calcining kiln. | Oran | do | do | do | June 15, 1975 |
| U.S. By-Products | Henrietta | | | | |
| Aluminum turnings operation | | a(3) | Feb. 27, 1974 | Immediately | Nov. 18, 1974 |
| Carbon waste disposal system | | do | do | do | Do. |
| Aluminum-foil drag kiln operation | | do | do | do | June 6, 1974 |
| Harbison-Walker Refractories | Fulton | | | | |
| Rotary dryer | | S-V, S-VIII | Feb. 28, 1973 | Immediately | June 1, 1973 |
| Rotary kiln | | do | Feb. 27, 1974 | do | June 30, 1974 |
| Allied Chemical Corp. | Owensville | | | | |
| Crushers | | S-V, S-VIII | Mar. 27, 1974 | Immediately | Oct. 1, 1974 |
| Rotary kiln | | do | do | do | Do. |
| Rotary cooler | | do | do | do | Do. |
| Valley Mineral Products, rotary kiln | Bonne Terre | do | May 22, 1974 | do | Dec. 31, 1974 |
| Henry Wurst, Inc., lithograph presses | North Kansas City. | Note 1 | Jan. 23, 1974 | do | Nov. 20, 1974 |
| ADM milling | do | | | | |
| 20 Bran grinders | | Note 2 | Jan. 10, 1973 | Immediately | June 15, 1972 |
| 22 No. 4 screening grinders | | do | do | do | Dec. 1, 1972 |
| 18 Bulgur grinder | | do | do | do | Jan. 15, 1973 |
| 27 Elevator head suction | | do | do | do | Apr. 1, 1973 |
| 30 Top belt suction | | do | do | do | May 1, 1973 |
| 16 A mill entoleter and break suction. | | do | Jan. 23, 1974 | do | July 1, 1974 |
| 17 BRK suction B mill | | do | do | do | Do. |
| 19 BRK suction A mill | | do | do | do | Do. |
| 23 No. 8 millerators—B mill | | do | do | do | Do. |
| 29 Bottom belt suction—new | | do | do | do | Mar. 29, 1974 |
| 28 Bottom belt suction—old | | do | do | do | Do. |
| Armco Steel | Kansas City | | | | |
| Scarfing operation | | Note 1 | Oct. 10, 1973 | Immediately | Feb. 1, 1974 |
| Electric furnace | | do | do | do | Do. |
| Mississippi Lime | Ste. Genevieve | | | | |
| Mississippi Rotary Plant: | | | | | |
| Kiln No. 1, No. 2, No. 3, No. 4 coolers. | | S-V, S-VII, and S-VIII. | Feb. 27, 1974 | Immediately | July 31, 1975 |
| Kiln No. 5 cooler | | do | do | do | June 30, 1975 |
| Kiln No. 6 cooler | | do | do | do | Mar. 7, 1975 |
| Kiln No. 7 cooler | | do | do | do | Nov. 15, 1974 |
| Kiln No. 8 cooler | | do | do | do | July 12, 1974 |
| Peerless Rotary Plant: | | | | | |
| Kiln No. 1 cooler | | do | do | do | Oct. 18, 1974 |
| Kiln No. 2 cooler | | do | do | do | Dec. 27, 1974 |
| Kiln No. 3 cooler | | do | do | do | Feb. 28, 1975 |
| Kiln-No. 4 cooler | | do | do | do | Apr. 25, 1975 |
| Kiln No. 5 cooler | | do | do | do | June 27, 1975 |
| Kiln No. 6 cooler | | do | do | do | July 31, 1975 |
| 60 in and 5 in grinding mills | | do | do | do | July 1, 1974 |
| Quisenberry Mills, railcar unloading | Kansas City | Note 2 | Oct. 10, 1973 | Immediately | Dec. 31, 1973 |
| Clay-Bailey Manufacturing cupola | do | Note 3 | Apr. 18, 1974 | do | July 31, 1974 |
| Atlas Powder Company | Joplin | | | | |
| $NH_4NO_3$ prill—neutralizer | | S-V | Apr. 24, 1974 | Immediately | July 31, 1975 |
| Urea prill tower | | do | do | do | Do. |
| Stengel reactor | | do | do | do | Do. |
| Soda spray vent | | do | do | do | Do. |
| Soda dry furnace | | do | do | do | Do. |
| Urea desorber stripper | | do | do | do | Do. |
| Cargill, Inc., roof vents | Kansas City | Note 1 | Dec. 19, 1973 | do | Mar. 15, 1974 |
| Ralston Purina, railcar unloading No. 6 and No. 7. | do | do | Oct. 10, 1973 | do | May 31, 1974 |
| True Temper Corp., heat treating process. | do | do | Dec. 19, 1973 | do | May 18, 1974 |
| Kansas City Terminal Elevator No. 2, grain handling cyclones. | do | do | Oct. 10, 1973 | do | Nov. 15, 1973 |
| GAF Corporation | do | | | | |
| Asphalt blowing | | Notes 1 and 5 | Mar. 28, 1974 | Immediately | June 30, 1974 |
| Asphalt saturating | | do | do | do | Do. |
| Dry fines unloading | | Note 1 | Mar. 5, 1974 | do | Oct. 1, 1974 |
| Metallurgical, Inc., N-2 draw furnace | Kansas City | do | Oct. 10, 1973 | do | Feb. 20, 1974 |
| Centropolis Crusher, rock pulverizing and drying. | do | Note 4 | Dec. 18, 1973 | do | Sept. 5 1974 |
| Bartlett and Company Grain, Missouri Pacific "B" elevator. | do | Note 1 | Nov. 29, 1973 | do | Nov. 1, 1974 |
| Certain-Teed Products, limestone tank loading. | do | do | Dec. 26, 1973 | do | July 8, 1974 |
| Alpha Portland Cement, 2 clinker coolers. | St. Louis County. | IV | Sept. 14, 1973 | do | Jan. 31, 1975 |

2. In § 52.1335, the table in paragraph (b) is amended as follows:

| Source | Location | Regulation involved | Date adopted |
|---|---|---|---|
| Kansas City Power and Light | Kansas City | | |
| Units 1 and 2—Hawthorne Plant | | 18.86B, 18.87A | Nov. 19, 1973 |
| Units 3 and 4 | | do | Do. |
| Unit 5 | | do | Do. |

[FR Doc.74-21802 Filed 9-20-74;8:45 am]

## [40 CFR Part 52]

## APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Parking Management Regulations; Public Hearings and Extension of Comment Period

On August 22, 1974, the Environmental Protection Agency proposed amendments to the parking management regulations in order to provide clarifications and slight modifications necessary for the successful implementation of transportation control plans (39 FR 30440). Written comments were invited and public hearings were announced with specific dates and places to be published in local newspapers pursuant to the provisions of 40 CFR 51.4. On August 27, 1974, the FEDERAL REGISTER published a further listing of vehicle miles traveled minimization measures (39 FR 30942) that had been omitted from the August 22 FEDERAL REGISTER.

The public hearings will be held both to receive comments on the proposed amendments and to gather information on the status of local efforts to develop parking management plans. The Administrator is especially interested in previous local actions which provide a foundation for parking management plan development and the areas in which the Federal government can assist the plan development process.

The following list, containing the dates and locations for the public hearings, is provided as an additional notification to the public, although notice has been or will be published locally in order to notify those persons directly concerned wtih the regulations.

PARKING MANAGEMENT HEARING DATES

EPA Region I:
- Boston—October 24, 1974, and October 25, 1974, Faneuil Hall at 9:00 a.m.

EPA Region II:
- S. New Jersey—October 21, 1974, Health and Agriculture Building, John Fitch Plaza, 1st Floor Auditorium, Trenton, New Jersey at 10:00 a.m.
- N. New Jersey—October 22, 1974, Newark College of Engineering, Room 312, College Center, 150 Bleeker Street, Newark, New Jersey at 10:30 a.m.

EPA Region III:
- Philadelphia—October 10, 1974, Green Federal Building, Room 7306 at 10:00 a.m.
- VA Suburbs of D.C.—October 21, 1974, Quality Motel, Arlington Boulevard, Arlington, Virginia at 10:00 a.m.
- Washington, D.C.—October 21, 1974, Waterside Mall, Room 3805, 401 M Street, SW, at 2:00 p.m.
- MD Suburbs of D.C.—October 22, 1974, Holiday Inn, Silver Room, 8777 Georgia Avenue, Silver Spring, Maryland at 10:00 a.m.
- Baltimore—October 22, 1974, Fallon Federal Building, Room G30-A at 2:00 p.m.
- Pittsburgh—October 23, 1974, Room 2218, Federal Building, 1000 Liberty Avenue, at 10:00 a.m.

EPA Region IX:
- San Diego—October 8, 1974, California State Office Building, Room B109, 1350 Front Street at 1:30 p.m. and 7:30 p.m.
- Phoenix—October 9, 1974, U.S. Court House, Room 8413, 230 N. First Avenue at 1:30 p.m. and 7:30 p.m.
- Tucson—October 10, 1974, Hilton Inn, Williamburg Room, 1601 Miracle Mile Strip at 1:30 p.m. and 7:30 p.m.
- Fresno—October 11, 1974, Fresno Convention Center, 700 M Street at 1:30 p.m. and 7:30 p.m.
- Los Angeles—October 15, 1974, Baltimore Hotel, Roman Room, 515 S. Olive Street at 1:30 p.m. and 7:30 p.m.
- San Francisco—October 17, 1974, Sir Francis Drake Hotel, Franciscan Room, 450 Powell Street at 1:30 p.m. and 7:30 p.m.
- Sacramento—October 18, 1974, State Department of Resources, First Floor Auditorium, 1416 Ninth Street at 1:30 p.m. and 7:30 p.m.

EPA Region X:
- Fairbanks—October 31, 1974, Hunter Elementary Schlool, Gymnasium, at 7:00 p.m.

The public hearing in Boston will cover not only the proposed amendments to the parking management regulations, but also other proposed changes to the Boston transportation control plan. The proposed amendments to the parking management regulations were published in the August 22, 1974 FEDERAL REGISTER (39 FR 30451), while the other proposed changes to the Boston plan will be published in the immediate future. These proposed changes relate to the Boston parking management regulation promulgated in the November 8, 1973 FEDERAL REGISTER (38 FR 30960) and specifically involve the responsibilities of employers, universities, and municipalities under the existing regulations. The proposed changes will be available in the EPA Boston Regional Office within the next few days.

A FEDERAL REGISTER notice containing a withdrawal of the proposed amendments to the parking management regulations for Houston-Galveston, Texas, as published in the FEDERAL REGISTER of August 22, 1974 (39 FR 30456), will be published in the immediate future.

Because of the importance of expedition, some hearings in different parts of the nation are scheduled on the same day. Any persons or organizations unable to attend a public hearing, for this or other reasons, may submit comments in writing and be assured that their comments will be reviewed by the Agency. The period for written comment, originally scheduled to close on September 23, 1974, will close on October 31, 1974. Written comments, preferably in triplicate, may be submitted at the hearings, or may be sent to Mr. Roger Strelow, Assistant Administrator for Air and Waste Management, Attention: Transportation and Land Use Policy Office, AW-443, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Dated: September 19, 1974.

ROGER STRELOW,
*Assistant Administrator for Air and Waste Management, Environmental Protection Agency.*

[FR Doc.74-22183 Filed 9-20-74;8:50 am]

## FEDERAL COMMUNICATIONS COMMISSION

## [47 CFR Part 73]

[Docket No. 19551]

## FM BROADCAST STATIONS

### Proposed Table of Assignments

In the matter of amendment of § 73.202 (b), table of assignments, FM broadcast stations. (Atlanta, Blackshear, Cochran, Dublin, Eastman, Hawkinsville, Hazlehurst, Macon, Monroe, and Ocilla, Georgia; Birmingham, Gadsden, *Haleyville, Jasper,* Northport, *Sheffield,* and Tuscaloosa, Alabama; and Columbus, Macon, New Albany, Oxford, and Starkville, Missisippi). (RM-1821, RM-2037, RM-1864, RM-2038, RM-1923, RM-2067, RM-2004, RM-2077, RM-2029)

1. Among the counterproposals incorporated into this FM rule making proceeding[1] under the standard cut-off procedure is that of Radio South, Inc., Jasper, Alabama (Radio South) proposing the assignment of Channel 224A in lieu of Channel 292A at Sheffield, Alabama, which is in operation as Station WRCK-FM, licensed to Radio Station WRCK (WRCK). In the circumstances, WRCK should be formally notified of this possibility and its rights in these and other related respects.

2. Helton & Norris Enterprises, Inc. (Helton & Norris) filed a petition for rule making requesting that Channel 224A be assigned to Haleyville, Alabama (RM-2004). Radio South, licensee of daytime AM Station WARF, opposed the Helton & Norris proposal and counterproposed the assignment of the same channel as a second FM assignment to Jasper, Alabama (RM-2037). Because of minimum mileage separation requirements, both assignments may not be made. To resolve the conflict, Radio South proposed the assignment of Channel 292A to Haleyville which requires the deletion of the assignment of that channel at Sheffield, Alabama, for which Radio South pro-

[1] Notice of proposed rule making, adopted July 19, 1972 (FCC 72-639; 37 FR 15320).

poses the substitution of Channel 224A. Haleyville, Alabama, population 4,190, is located in Winston County, 16,654. Jasper, population 10,798, is the seat of Walker County, population 56,246. Since Station WRCK–FM operates on the Sheffield assignment, it is appropriate to issue an Order to Show Cause on WRCK to apprise it of its rights including entitlement to reimbursement.

3. In the latter respect, the parties have discussed reimbursement and WRCK has informally expressed its willingness to change channels and to accept reimbursement. It is well settled Commission policy that where a change in the FM Table of Assignments is made which requires that an operating station change the channel of operation it is entitled to be reimbursed for actual cost of change. See e.g., Cocoa Beach, 1 F.C.C. 2d 643, 645 (1965); Wenatchee, 2 F.C.C. 2d 828, 830 (1966); Kenton and Bellefontaine, 3 F.C.C. 2d 598, 603–5 (1966); *Gretna and Danville*, 5 F.C.C. 2d 333, 341 (1966); and Circleville, 8 F.C.C. 2d 159 (1967). Further Radio Station WRCK's right of recovery accrues only against a benefitting applicant; see Elizabethtown 26 F.C.C. 2d 162, 166 (1970).

4. *Accordingly, it is ordered,* That, pursuant to Section 316 of the Communications Act of 1934, as amended, Radio Station WRCK, licensee of Station WRCK–FM, Sheffield, Alabama, shall show cause why its licensee should not be modified to specify operation on Channel 224A instead of Channel 292A if the Commission in this proceeding finds it in the public interest to assign Channel 292A to Haleyville, Alabama, or another community, and to substitute Channel 224A for Channel 292A at Sheffield, Alabama. This order is being made with the understanding that the applicants benefitting from the proposed change at Sheffield, Alabama, will pay reasonable reimbursement of expenses incurred in the change of channel of operation of Station WRCK–FM at Sheffield, Alabama.

5. Pursuant to section 1.87 of the Commission's Rules and Regulations, the licensee of Station WRCK–FM, may, not later than October 21, 1974, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Radio Station WRCK may, not later than October 21, 1974, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on Radio Station WRCK to furnish additional information, designate the matter for hearing, or issue without further proceeding an order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Radio Station WRCK will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission if the channel changes mentioned in paragraph 2 above are found to be in the public interest.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), 303(r), and 316 of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules and regulations.

7. It is directed, that the Secretary of the Commission send a copy of this Order by Certified Mail, Return Receipt Requested, to Radio Station WRCK, Tuscumbia, Alabama, the party to whom the Order to Show Cause is directed.

Adopted: September 6, 1974.

Released: September 9, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.74-21981 Filed 9-20-74;8:45 am]

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## [ 47 CFR Part 73 ]

[Docket No. 20190, RM–2303]

## FM BROADCAST STATIONS IN FUQUAY-VARINA, NORTH CAROLINA

### Proposed Table of Assignments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Fuquay-Varina, North Carolina).

1. Notice is hereby given of the institution of this proceeding to consider a proposal to amend the FM Table of Assignments by assigning Channel 280A to Fuquay-Varina, North Carolina, for a first FM assignment and a first full-time aural broadcast outlet. The proposal is advanced by Wake County Broadcasting Co., Inc. (Wake), licensee of AM Station WAKS, a daytime-only operation, at Fuquay-Varina, in a petition for rule making filed on December 28, 1973. Since the petitioner's Fuquay-Varina Channel 280A proposal (RM–2303) was mutually exclusive with a proposal to assign Channel 280A to Fayetteville, North Carolina (RM–2279), advanced as a counterproposal in the Lake City, S.C.-Fayetteville, N.C. proceeding in Docket No. 19827, and was untimely received for consideration therewith under our cut-off procedures in that proceeding, action on its request was tabled pending our consideration and disposition of the conflicting Fayetteville Channel 280A proposal in Docket No. 19827. The proceeding in Docket No. 19827 has now been concluded, and in our decision therein[1] we decided, inter alia, that the Fayetteville Channel 280A assignment proposal under consideration therein did not warrant adoption. Therefore, having thus disposed of the Fayetteville Channel 280A proposal in Docket No. 19827, and it appearing from Wake's showing in its petition and timely-filed supporting comments that its Fuquay-Varina Channel 280A proposal may possibly warrant adoption, we believe it now appropriate and desirable to consider it further in rule making.

2. Fuquay-Varina (population, 3,576) is located in the southeastern section of Wake County (population, 228,453) in the eastern part of North Carolina, approximately 18 miles south of Raleigh (population, 121,577), the state capital (also located in Wake County), and approximately 35 miles north of Fayetteville, North Carolina (population, 53,510).[2] The petitioner states that Wake County, like most areas in the eastern part of North Carolina, is currently growing rapidly. During the ten year period from 1960 to 1970, Wake County increased by 35.1 percent in population (from 169,082 to 228,453); Raleigh increased by 29.4 percent in population (from 93,931 to 121,577); and Fuquay-Varina increased by 5.5 percent in population (from 3,389 to 3,576).

3. The petitioner avers that Fuquay-Varina has achieved significance as a regional trade center in southern Wake County and in northern Harnett County which extends to approximately two miles south of Fuquay-Varina and that, while Fuquay-Varina has in the past principally been noted for its large tobacco market, its economy is now changing from an agricultural to an industrial base. Relying on information furnished by the Fuquay-Varina Chamber of Commerce, Wake points out that Fuquay-Varina has five banking and saving and loan establishments and some 140 retail stores; that three new shopping centers are in the planning stage, three new apartment complexes are under construction, with plans for others in the offing; that residents of the city have recently approved a one and one-half million dollar water bond referendum, a three million dollar public school complex and a quarter million dollar sewage bond; and that industrial firms now located in Fuquay-Varina include the Kendal Company, Cornell Dubiller Electronics, Paragon Woven Labels, Universal Polymer Products, Adams Concrete Products Co., Tobacco Growers Services, North State Tobacco Co., Variety Wholesalers Warehouse and Sales Headquarters, Golf Carts, Inc., Ashworth's Inc., and Norcom Electronics. In addition, Wake states that the industrial base of Fuquay-Varina is expected to be broadened by the construction of a proposed nuclear power generating plant and dam by the Carolina Power and Light Company within a few miles of the city.

4. At present, Fuquay-Varina's only local aural broadcast outlet is the petitioner's daytime-only AM station (WAKS), and no FM channel has been assigned. Wake states that Station WAKS also serves as the only aural broadcast outlet for local expression for a cluster of nearby smaller towns whose combined population (excluding outlying rural areas) exceeds 8,000 persons.

[1] In re Lake City, S.C.-Fayetteville, N.C., Report and Order, released July 26, 1974, Docket No. 19827, FCC 74–799, 47 F.C.C. 2d ——.

[2] All population figures are from the 1970 U.S. Census unless otherwise indicated.

Among these towns, Wake mentions Apex (population 2,192), located eight miles north of Fuquay-Varina in Wake County; Angier (population 1,431), located five miles to the southwest of Fuquay-Varina in Harnett County; and Lillington (population 1,155), located thirteen miles to the south of Fuquay-Varina in Harnett County. It urges that the assignment of Channel 280A as a first FM assignment to Fuquay-Varina would provide a first local nighttime aural broadcast service in this area and that Fuquay-Varina is a growing community deserving and warranting a first local fulltime broadcast service to provide local news and informational programming not presently available at night. If Channel 280A is assigned to Fuquay-Varina, Wake states that it will immediately apply for it and, if authorized, will construct and operate a station.

5. As to the technical feasibility of a Fuquay-Varina Channel 280A assignment, it appears that the channel could be assigned without any other changes in the FM Table of Assignments and in conformity with the Commission's minimum mileage separation requirements if used at a transmitter site located at least seven miles southwest of Fuquay-Varina to meet the required 105-mile spacing from the Channel 281 station (WTQR) at Winston-Salem, North Carolina, and the Channel 279 station (WIAM-FM) at Williamston, North Carolina. It also appears from the engineering showing accompanying Wake's supporting comments that the location it contemplates for a Channel 280A transmitter site for a Fuquay-Varina station—the proposed location (North Latitude 35°30'11", West Longitude 78°50'59") is slightly closer to Fuquay-Varina than the location contemplated in its petition—would meet spacing requirements and enable a Channel 280A station to place a signal of the required intensity (70 dBu) over Fuquay-Varina and that it has taken steps to insure that this location would be available to it for use by obtaining a lease commitment for the land.

6. Accordingly, in view of the foregoing, and pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as concerns Fuquay-Varina, North Carolina, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Fuquay-Varina, N.C. | | 280A |

7. *Showings required.* Comments are invited on the proposal discussed above. Proponent will be expected to answer whatever questions that may be presented in initial comments. The proponent of the proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

8. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 12, 1974, and reply comments on or before December 2, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

10. In accordance with the provisions of Section 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

11. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

Adopted: September 13, 1974.

Released: September 17, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] HAROLD L. KASSENS,
*Acting Chief, Broadcast Bureau.*

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## FEDERAL ENERGY ADMINISTRATION

### [ 10 CFR Part 660 ]

### PUERTO RICO

### Petroleum Allocation

The Department of Consumer Affairs hereby gives notice of a proposal to amend Title 10 of the Code of Federal Regulations to add a new Part 660 to Subchapter K of Chapter II, setting forth the mandatory allocation regulations applicable to motor gasoline, propane, butane, middle distillates and residual fuel oil sold for use within the Commonwealth of Puerto Rico.

The Mandatory Petroleum Allocation Regulations of the Federal Energy Administration are based upon energy consumption and distribution patterns established in the mainland United States, and differ substantially from the unique characteristics in the Commonwealth.

Puerto Rico is 99 percent dependent upon imported petroleum for all its energy requirements, whereas the mainland United States depends upon petroleum for only about 45.6% of all energy. On the mainland, use of petroleum for energy is supplemented by significant amounts of coal, natural gas and nuclear fuels, none of which are available in Puerto Rico.

With respect to consumption of energy, Puerto Rico's use of petroleum fuels is far less per capita than in the mainland United States. For example, per capita Puerto Rican consumption of motor gasoline in 1972 was only 179 gallons per year as opposed to 456 gallons per year in the mainland United States. Hardly any refined petroleum products are used for space heating in Puerto Rico and despite tropical temperatures, only about 7 percent of all homes are air-conditioned.

Virtually all petroleum fuels consumed in Puerto Rico are for high priority uses. Residual fuel oil and middle distillates are used primarily for electric power generation and for industrial purposes. Much of the motor gasoline is for public transportation and commercial use.

Starting from a far lower economic base than the rest of the United States and as a result of operation Bootstrap in Puerto Rico and the policy of promoting Puerto Rico's economic development by the past six administrations, Puerto Rico's economy has been growing at the rate of about 12 percent per year as opposed to about 5 percent for the mainland. But despite its high economic growth rate, Puerto Rico remains poorer than any state, with a per capita income of only 39.5 percent of the U.S. average. The Island's official unemployment rate is 13 percent, more than double the U.S. national average.

Because of these unique characteristics of Puerto Rico and in order to assure a sufficient supply of petroleum products to maintain economic growth, the Governor petitioned the Federal Energy Office for delegation of authority to allocate petroleum products in the Commonwealth of Puerto Rico. On March 7, 1974, the Federal Energy Office delegated such allocation authority to the Governor, in FEO Order No. 4 which reads as follows:

GOVERNOR OF THE COMMONWEALTH OF PUERTO RICO

DELEGATION OF AUTHORITY

Pursuant to the authority vested in me as Administrator of the Federal Energy Office Executive Order 11748, It is hereby ordered, as follows:

1. There is delegated to the Governor of the Commonwealth of Puerto Rico all authority delegated to the Administrator of the Federal Energy Office by section 3(a) of Executive Order 11748 with respect to the allocation of propane, butane, motor gasoline, middle distillate and residual fuel oil within the Commonwealth of Puerto Rico, provided that any allocation program estab-

lished pursuant to this delegation complies with the provisions of paragraphs 2, 3 and 4 of this order.

2. The volume of each product subject to allocation pursuant to this order shall not exceed one hundred percent (100%) of the volume of each such product sold for use within the Commonwealth of Puerto Rico during the corresponding calendar quarter of the base period January 1 to December 31, 1973. Any amounts of allocated products in excess of 100% of the base period used within Puerto Rico any amounts of allocated products exported from Puerto Rico shall be subject to the Mandatory Petroleum Allocation Regulations of the Federal Energy Office as set forth in Part 211 of Title 10, Code of Federal Regulations.

3. The Administrator of the Federal Energy Office shall be fully advised of any allocation program implemented pursuant to this order and shall receive monthly reports on the operation of such allocation program from the Governor of the Commonwealth of Puerto Rico in accordance with forms and instructions to be issued by the Federal Energy Office.

4. The Governor of the Commonwealth of Puerto Rico shall submit to the Administrator of the Federal Energy Office a program for energy conservation for Puerto Rico, which must be approved by the Administrator before this delegation may be implemented.

5. The Governor of the Commonwealth of Puerto Rico may redelegate to any officer or agency of the Commonwealth of Puerto Rico any authority delegated to him by this order.

6. This delegation may be modified or amended by the Administrator of the Federal Energy Office at any time after consultation with the Governor of the Commonwealth of Puerto Rico.

7. This order is effective immediately.

WILLIAM E. SIMON,
*Administrator,*
*Federal Energy Office.*

MARCH 7, 1974.

The Conservation Program referred to in the delegation order was submitted by the Commonwealth and approved by the Federal Energy Office. The Governor's authority under the delegation order has been delegated by the Governor to the Secretary of the Department of Consumer Affairs of the Commonwealth of Puerto Rico. It is in exercise of this authority that the regulations herein are proposed.

The regulations focus on the "supplier" of petroleum products, who may either be a refiner or a wholesaler or distributor, and the "wholesale purchaser" who may either be one who buys wholesale and sells to retailers, a "wholesale purchaser-reseller", or one who consumes petroleum products in large volumes, a "wholesale purchaser-consumer". Suppliers of petroleum products will supply base period volumes, subject to an allocation fraction, to base period wholesale purchasers. No allocation levels will govern sales by retailers to end-users but such sales must be on an equitable basis.

In order to create a minimum of market disruption, end-use priorities have not been proposed at this point. It is anticipated that with strict compliance with the Conservation Program the historical percentage distribution of petroleum products will remain adequate and equitable without the establishment of priorities. Undoubtedly, adjustments will be necessary, particularly for new consumers and for changed conditions. Those experiencing hardship may petition the DOCA for relief, and the DOCA will retain authority to provide relief on an individual basis as well as on an industry-wide or other class-wide basis, should it be warranted.

Pursuant to the proposed regulations, estimated allocable supply by each supplier for each allocation period will be reported to the DOCA fifteen (15) days prior to the beginning of each allocation period. Persons importing products for their own consumption will also report new or increased imports to the DOCA. Such direct imports are encouraged by the Commonwealth and the suppliers will not become subject to allocation by the DOCA except in the face of extreme emergency or hardship. Suppliers ordinarily engaged in the export of petroleum products (all sales not for use within the Commonwealth) will be required to report total sales volumes to the DOCA. Authority will be retained to redirect such exports if the suppliers engaged in sales for use within the Commonwealth experience a shortfall below 1973 volumes. Under ordinary circumstances no supplier's total supply subject to allocation under this program should exceed its sales for use within the Commonwealth during the corresponding period of 1973.

Authority is retained to establish a prenotification plan for allocation products. The method of prenotification which would be implemented is set forth in Subpart E. However, these provisions would not become effective unless a special order requiring prenotification is issued by the Administrator.

A set-aside system is established to meet hardships and inequities. The set-aside volume will be held by each "prime supplier" and be computed as a specified percentage of its sales as a prime supplier.

The proposed method for allocation of unleaded gasoline is designed to assure that wholesale purchasers are able to purchase unleaded gasoline necessary to meet the EPA requirements. In addition, it is intended to make available unleaded gasoline in an equitable manner throughout the entire Commonwealth, to meet market demands, and to avoid substantial market disruption.

The method of allocation of unleaded gasoline is similar to that of the Federal Energy Administration.

The proposed regulations are to become effective on October 31, 1974, and will apply to all petroleum products sold after 11:59 p.m., October 31, 1974. The Mandatory Petroleum Allocation Regulations of the Federal Energy Administration remain applicable to the method of allocation of petroleum products sold prior to 11:59 p.m., October 31, 1974. The prices at which petroleum products may be sold remains subject to the Mandatory Pricing Regulations of the Federal Energy Administration.

Procedural regulations applicable to individuals seeking an exception or exemption from the DOCA regulations will be forthcoming in Part 661. They will also include provisions concerning violations, administrative sanctions, and judicial action.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments to offer in this regard.

Interested persons are invited to participate in the rule-making by submitting written comments on the proposed regulations set forth in this notice. Such comments should be addressed to the Department of Consumer Affairs, P.O. Box 13934, Santurce, Puerto Rico 00908, and should be identified on the outside of the envelope with the designation "Proposed Allocation Regulations." Comments should be received by October 9, 1974.

In addition, public hearings will be held on October 2, 1974 at the Room for Public Hearings in the Department of Consumer Affairs, Santurce, Puerto Rico. The hearings will begin at 10 a.m. and will be open to all representatives of industry, government, retailers and consumer groups. The rules for the conduct of the hearings will be announced at the opening session and will be repeated at each subsequent session.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275, E.O. 11790, 39 FR 23185; FEO Order No. 4, 39 FR 9506; Governor of the Commonwealth of Puerto Rico, E.O. No. 2039)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10 of the Code of Federal Regulations to add a new Subchapter K, Part 660 as set forth below.

Issued in San Juan, Puerto Rico, September 18, 1974.

FEDERICO HERNANDEZ-DENTON,
*Secretary, Department of Consumer Affairs, Commonwealth of Puerto Rico.*

## SUBCHAPTER K—DELEGATIONS

## PART 660—MANDATORY PETROLEUM REGULATIONS—PUERTO RICO

### Subpart A—General Provisions



### Subpart B—Definitions

### Subpart C—General Allocation Rules

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275, E.O. 11790, 39 FR 23185; FEO Order 4, 39 FR 9506; Governor of the Commonwealth of Puerto Rico, E.O. No. 2039.

## Subpart A—General Provisions

### § 660.1 Purpose.

The purpose of this part is to set forth the regulations applicable to the mandatory allocation of motor gasoline, middle distillates, propane, butane and residual fuel oil in the Commonwealth. To the extent of any conflict, the provisions of this part supersede the provisions of the Mandatory Petroleum Allocation Regulations of the Federal Energy Administration.

### § 660.2 Applicability.

(a) Effective 11:59 p.m., October 31, 1974, the provisions of this part apply to each petroleum product produced in or imported into the Commonwealth up to the volume of that product sold for use within the Commonwealth during the corresponding calendar quarter of 1973.

(b) Effective 11:59 p.m., October 31, 1974, the provisions of this part apply to each firm which refines, imports, exports, purchases or sells petroleum products in the Commonwealth.

### § 660.3 Exclusions.

(a) Any volume of a petroleum product in the Commonwealth in a particular calendar quarter in excess of the volume of that petroleum product sold for use within the Commonwealth in the corresponding calendar quarter of 1973, is excluded from the provisions of this part and remains subject to the Mandatory Petroleum Allocation Regulations of the FEA.

(b) Exports of petroleum products subject to Subchapter B of Chapter III of Title 15 of the Code of Federal Regulations are excluded from this part.

### § 660.4 Exceptions and exemptions.

When necessary to accomplish the purposes of the Act, the DOCA may permit an exception or an exemption from the regulations of this part. Requests for exception and exemption shall be submitted in accordance with the provisions of Part 661 of this subchapter.

### § 660.5 Ratification of prior directives, orders and actions.

Unless modified by any provisions of this part any directive, order or action in effect pursuant to the Act shall remain in effect:

(a) Until its expiration by its own terms; or

(b) Until its revocation or amendment by any directive or order or superseding regulation issued under the provisions of this part.

### § 660.6 Retaliatory actions.

No firm (including an individual) may take retaliatory action against any other firm (including an individual) that files or manifests an intent to file a complaint of alleged violation of, or that otherwise exercises any rights conferred by the Act, any provision of this part, or any order issued under this part. For the purposes of this paragraph, "retaliatory action" means any action contrary to the purpose or intent of the Act or the DOCA to allocate petroleum products and may include a refusal to continue to sell, any reduction in quality, any reduction in quantity of services or products customarily available for sale or lease, any slowdown in customary delivery time or schedule, any violation of privacy, any form of harassment, or any inducement of others to retaliate.

### § 660.7 Normal business practices.

(a) Suppliers will deal with purchasers of a petroleum product according to normal business practices in effect during the base period specified in this part for that petroleum product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this part. "Summer fill" programs and other "dating" or seasonal credit programs are among the normal business practices which must be maintained by a supplier under this paragraph, if that supplier had such programs in effect during the base period. Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973 price charged to a class of purchasers under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for petroleum products, as customarily associated with that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms). However, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms).

(b) No supplier shall engage in any form of discrimination among purchasers of any petroleum product. For purposes of this paragraph, "discrimination" means extending any preference or sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this part or the Act, and includes, but is not limited to, refusal by a retail marketer of motor gasoline or diesel fuel to furnish or sell any petroleum product due to the absence of a prior selling relationship with the purchaser, or establishment of new volume purchase arrangements where customers of retailers agree in advance to purchase in excess of normal amounts of motor gasoline or diesel fuel and thereby receive preferential treatment.

(c) Any practice which constitutes a means to impose terms or conditions not customarily imposed upon the sale of a petroleum product is in violation of these regulations.

### § 660.8 Supplier/purchaser accommodations.

(a) Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices. The purchaser shall, however, be entitled to receive the same amount of the petroleum product from the substituted supplier or suppliers that it would receive if it were directly supplied by the original supplier using that supplier's allocation fraction.

(b) In order to alleviate imbalance, suppliers and refiners may make normal business exchanges among themselves.

(c) To accommodate seasonal and other fluctuations in both supply and demand such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers.

### § 660.9 Administrative actions.

(a) *Directed sales.* (1) Notwithstanding any other provision of this part, the DOCA may order any supplier, including a refiner, importer, exporter, or any other seller of petroleum products to sell a particular petroleum product to a specified purchaser or class of purchasers if it is determined that such a sale or sales are necessary in order to further the purpose and goals of the Act and these regulations.

(2) With respect to suppliers described in § 660.103(g), the DOCA will notify the supplier of the volume of its petroleum products subject to directed sales five (5) days prior to the allocation period for which the sale or sales are directed.

(b) *Inventories of petroleum products.* No supplier, importer, wholesale purchaser or end-user shall accumulate inventories of any petroleum product which exceed customary inventories maintained by that supplier, importer, wholesale purchaser or end-user in the conduct of his normal business practices unless otherwise directed by the DOCA. Normal inventory practices shall be observed in determining allocable supplies of petroleum products each month. The DOCA may review inventory practices

and may direct an increase or decrease in inventories if:

(1) The inventory practices employed are inconsistent with the provisions of this part;

(2) The inventory practices circumvent or otherwise violate other provisions of this part; or

(3) The DOCA determines that an adjustment is necessary in order to allocate petroleum products in a manner consistent with the objectives of the allocation program.

(c) *Adjustment to calculations.* Upon a finding that incorrect or otherwise inaccurate data have been used in calculating the allocation of any petroleum product subject to this part, the DOCA may take appropriate action to adjust any such figures or data and any allocations based thereon to account for the error.

(d) *Adjustments to allocable supply.* Notwithstanding any other provision of this part, the DOCA may order any supplier, including a refiner, importer, exporter or any other seller of petroleum products to increase its allocable supply in excess of the amount computed under § 660.103(b)(1) if necessary in order to assure that the total volume of petroleum products subject to this part in a particular calendar quarter are equal to the volume sold for use in the Commonwealth in the corresponding calendar quarter of 1973.

(e) *Redirection of product.* To meet imbalances that may occur in the supplies of any petroleum product, the DOCA may order the transfer of specified amounts of any such product from one area to another or may order that different allocation fractions be used in different areas. Furthermore, the DOCA may transfer supplies of petroleum products among suppliers in order to remedy supply imbalances.

(f) *Reassignment of wholesale purchasers.* Any supplier which has significantly reduced marketing or distribution activities in any area and which is obligated to supply its base period purchasers in that area under the terms of this program may apply to the DOCA to seek a change in the method of supplying such purchasers. The DOCA may order the reassignment of wholesale purchasers from one supplier to another.

## Subpart B—Definitions

### § 660.51 General definitions.

"Act" means the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974, and the Economic Stablization Act of 1970, as amended, as appropriate.

"Adjusted base period volume" means base period volume as adjusted pursuant to § 660.106.

"Administrator" means the Secretary of the Department of Consumer Affairs or his delegate.

"Allocation period" means a period corresponding to a base period.

"Allocable supply" means allocable supply as defined in § 660.103(b)(1).

"Allocation fraction" means allocation fraction as defined in § 660.103(b).

"ASTM" means American Society for Testing Materials.

"Assignment" means an action taken by the DOCA, designating that an authorized purchaser be supplied a volume of a petroleum product determined by the DOCA by a specified supplier.

"Base period" means:

(i) For motor gasoline and middle distillates, the month of 1972 corresponding to the current month; and

(ii) For propane, butane and residual fuel oil, the month of 1973 corresponding to the current month.

"Base period use" means base period volume or adjusted base period volume.

"Base period volume" means base period volume as defined in § 660.103(b)(2)(ii).

"Commonwealth" means the Commonwealth of Puerto Rico.

"DOCA" means the Department of Consumer Affairs of the Commonwealth.

"End-user" means any firm which is an ultimate consumer of a petroleum product in the Commonwealth other than a wholesale purchaser-consumer.

"Ethane" means a hydrocarbon whose chemical composition is $C_2H_6$.

"Exporter" means any firm which owns at the last place of storage in the Commonwealth any petroleum product leaving the Commonwealth, provided, however, that a commercial fisherman whose primary harbor is in the Commonwealth, and a commercial freighter engaged in the business of transporting cargo between points in the Commonwealth or to or from the Commonwealth is not an exporter of a petroleum product it purchases for use as fuel in that freighter.

"FEA" means the Federal Energy Administration or its delegate or its predecessor.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, or local government units provided that such entity or entities are located or doing business in the Commonwealth. The DOCA may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

"Importer" means any firm that owns at the first place of storage any petroleum product brought into the Commonwealth, and includes petroleum product brought into the Commonwealth from the mainland.

"LPG" means liquefied petroleum gas, and includes propane and butane, and propane/butane mixes, but not ethane.

"Middle distillate" means any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which have a fifty (50) percent boiling point in the ASTM D–86 standard distillation test falling between 370° and 700° F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV–F–815C or ASTM D–396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6 oil), and all specialty items such as solvents, lubricants, waxes and process oil.

"Motor gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties and includes products such as natural gas liquids, alkylates, naptha, toluene and mixed xylenes when used as blending stock to form motor gasoline.

"Petroleum product" means propane, butane, motor gasoline, middle distillate and residual fuel oil.

"Prime supplier" means any supplier which makes the first sale of a petroleum product in the Commonwealth. In the case of an imported petroleum product, the first sale is the sale by the importer.

"Purchaser" means a wholesale purchaser, an end-user, or both, but does not include an exporter.

"Refiner" means those firms which own, operate or control the operations of one or more industrial plants, regardless of capacity, processing crude oil feedstock or refined petroleum products and manufacturing propane, butane, motor gasoline, middle distillate or residual fuel oil.

"Refined petroleum product" means gasoline, kerosene, middle distillate (including number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

"Residual fuel oil" means the fuel oils commonly known as: (1) No. 4, No. 5 and No. 6 fuel oils; (2) Bunker C; (3) Navy Special Fuel Oil; (4) crude oil when burned directly as a fuel; and all other fuel oils which have a fifty (50) percent boiling point over 700° F in the ASTM D–86 standard distillation test.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling any petroleum product to end-users or wholesale purchaser-consumers.

"Set-aside volume" means, with respect to a particular prime supplier, the amount calculated pursuant to § 660.110(c)(i).

"Supplier" means any firm located or doing business in the Commonwealth, which supplies, sells, transfers or otherwise furnishes (as by consignment) any petroleum products to wholesale purchasers, end-users or exporters. Supplier includes but is not limited to refiner, importer, exporter, reseller, jobber, and retailer.

"Supply obligation" means supply obligation as defined in § 660.103(b)(2).

"Wholesale purchaser" means a wholesale purchaser-reseller (other than an exporter) or a wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer in the Commonwealth, which, as part of its normal business practices, purchased or obtained in any completed calendar year subsequent to 1971 more than 24,000 gallons of a petroleum product from a supplier and received delivery of that product into a storage tank substantially under the control of that firm at a fixed location in the Commonwealth.

"Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) a petroleum product and resells or otherwise transfers it to other purchasers in the Commonwealth without substantially changing its form.

### Subpart C—General Allocation Rules

#### § 660.101 Applicability.

This subpart applies to each petroleum product to be sold for use within the Commonwealth after 11:59 p.m., October 31, 1974, and to each firm which refines, imports, exports, purchases or sells petroleum products in the Commonwealth.

#### § 660.102 Supplier/purchaser relationships.

(a) *Supplier/wholesale purchaser relationship.* Each supplier of a petroleum product shall supply all wholesale purchasers which purchased or obtained that petroleum product from that supplier during the base period as specified in the provisions of this part or as otherwise ordered by the DOCA.

(b) *Changes in ownership or brand.* The supplier/purchaser relationship required by this part shall not be altered by (1) changes in the ownership or right to possession of the real property on which a wholesale purchaser maintains its on-going business or end use; or (2) changes in the brand or franchise under which a wholesale purchaser-reseller maintains its on-going business.

(c) *New relationships* (1) Suppliers shall not supply new wholesale purchasers except in accordance with § 660.105(d).

(2) New suppliers shall not supply wholesale purchasers or end-users except in accordance with § 660.103(d).

(d) *Dual capacities.* A supplier may also act in the capacity of a wholesale purchaser, an importer, an exporter, or an end-user. A wholesale purchaser may act in the capacity of both a wholesale purchaser-reseller and wholesale purchaser-consumer. A firm which is acting in one or more different capacities shall comply with the appropriate regulations governing each capacity in which it acts.

#### § 660.103 Supplier's method of allocation.

(a) *General.* (1) Subject to the prenotification provisions in subpart E, suppliers of petroleum products shall allocate all of their allocable supply in accordance with the provisions of this section. Each supplier shall determine its allocation fraction pursuant to the provisions of paragraph (b) of this section. Suppliers shall then allocate to purchasers in accordance with the provisions of paragraph (c) of this section. The method of allocation for new suppliers is specified in paragraph (d) of this section. Suppliers with allocation fractions less than one (1.0) must act in accordance with the provisions of paragraph (e) of this section while suppliers with allocation fractions equal to or greater than one (1.0) must act in accordance with the provisions of paragraph (f) of this section. Suppliers, other than new suppliers, which in a particular base period have no supplier/purchaser relationships must act in accordance with the provisions of paragraph (g) of this section.

(2) For purposes of defining a supplier in this part, a firm shall mean the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(b) *Allocation fraction.* Each supplier shall determine a single allocation fraction for each petroleum product prior to making any allocation. A supplier's allocation fraction for any allocation period for a petroleum product shall be equal to its allocable supply of that product, which is defined in paragraph (b)(1) of this section, for that period divided by its supply obligation for all levels of distribution, which is defined in paragraph (b)(2) of this section.

(1) *Allocable supply.* Each supplier's allocable supply of a petroleum product for an allocation period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports, purchases and its beginning inventory and any adjustment in inventory of that petroleum product made pursuant to § 660.9 and any other adjustments ordered by DOCA; less (i) any amounts designated as set-aside pursuant to § 660.110 and (ii) any amount in excess of the amount sold for use within the Commonwealth of Puerto Rico in the 1973 period corresponding to the allocation period unless otherwise ordered by the DOCA pursuant to § 660.9.

(2) *Supply obligation*—(i) *General.* A supplier's supply obligation of a particular petroleum product is the sum of (A) the amounts of its wholesale purchasers' base period volumes, as adjusted pursuant to § 660.106, which were supplied by the supplier during the appropriate base period provided that the purchaser is still in business or continues to use the product for the same purposes for which it was purchased in the base period; (B) the amounts of adjusted base period volumes of new wholesale purchasers which are assigned to or accepted by the supplier in accordance with the provisions of § 660.105; and (C) the amount equal to its total sales to end-users during that base period. Base period volume is defined below.

(ii) *Base period use.* Base period use means base period volume or adjusted base period volume as appropriate. A wholesale purchaser's base period volume of a particular petroleum product is the volume of that petroleum product purchased or obtained during the appropriate base period as determined in accordance with § 660.105(c) or the base period volume as adjusted pursuant to § 660.106. In the case of a new wholesale purchaser, base period volume means the volume assigned or agreed to pursuant to § 660.105(d). Adjustments to base period volumes shall be made in accordance with the provisions of § 660.106.

(c) *Allocation by suppliers to wholesale purchasers and end-users* — (1) *Wholesale purchasers.* A supplier shall allocate to each of its wholesale purchasers a volume of a petroleum product equal to the product of that supplier's allocation fraction multiplied by an amount equal to that wholesale purchaser's base period use.

(2) *End-users.* Suppliers shall allocate equitably among end-users, a volume of petroleum product equal to the product of that supplier's allocation fraction multiplied by an amount equal to its total sales to end-users in the appropriate base period or adjusted base period.

(d) *New supplier.* (1) A supplier which was not a base period supplier but was a supplier prio. to January 15, 1974 shall supply in accordance with the provisions of this section, (i) wholesale purchasers which it supplied as of January 15, 1974 and which have no base period supplier; (ii) any purchasers assigned by DOCA; (iii) new wholesale purchasers acquired after January 15, 1974 in accordance with the provisions of § 660.105; and (iv) to the maximum extent possible, end-users.

(2) A supplier which was not a supplier prior to January 15, 1974 shall be considered to have no supply obligation and shall not allocate supplies to any purchaser without DOCA approval.

(3) Notwithstanding any other provision of paragraph (d), a supplier which was not a base period supplier but which is a supplier on October 31, 1974 shall for the allocation periods which includes the months of November and December, supply the wholesale purchasers assigned by the FEA prior to October 31, 1974.

(e) *Allocation fractions less than one.* When a supplier's allocation fraction is less than one (1.0), a supplier shall reduce, on a pro rata basis, the amounts supplied to end-users and wholesale purchasers.

(f) *Allocation fractions equal to or greater than one.* (1) In allocating allocable supplies of any petroleum product among wholesale purchasers and end-users no supplier may use an allocation fraction greater than one (1.0). If a supplier's allocable supply is of sufficient magnitude that the allocation fraction exceeds one (1.0), the supplier shall make allocations based on an allocation fraction of one (1.0), and shall notify the DOCA pursuant to § 660.152 as to the volume of petroleum product remaining in its allocable supply. The DOCA may

direct that the petroleum product be distributed among other suppliers, sold to designated wholesale purchasers or end-users, be accumulated in inventory, or be added to the supplier's set-aside volume. If the reporting supplier is not notified to the contrary by the DOCA within fifteen (15) days after filing of its report with the DOCA, he may distribute these volumes to any wholesale purchasers or end-users.

(2) No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of a petroleum product which exceed one hundred (100) percent of that end-user or wholesale purchaser-consumer's current requirements, unless directed by DOCA.

(g) *Suppliers without wholesale purchasers or end-users.* A supplier such as an exporter which was in existence prior to January 15, 1974, but which in a particular base period has no supplier/purchaser relationships established pursuant to § 660.102, shall report its total supply to the DOCA pursuant to the provisions of § 660.153(a). Unless the supplier is notified by the DOCA to make directed sales pursuant to § 660.9, the suppliers shall allocate its petroleum products pursuant to the FEA regulations.

### § 660.104 Basis for purchaser's entitlement to allocation.

(a) *Basis of entitlement.* A wholesale purchaser shall receive an allocation based on its conduct of an ongoing business in the Commonwealth or maintenance of an established end-use within the Commonwealth.

(b) *End-users and wholesale purchasers as a firm.* (1) For purposes of defining a wholesale purchaser-consumer in this part, a firm shall mean those parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers in the Commonwealth including all sites, storage tanks and other facilities or entities of the wholesale purchaser-consumer that utilize or store a petroleum product in the Commonwealth.

(2) Except as provided in paragraph (b)(3) of this section, for purposes of defining a wholesale purchaser-reseller in this part, a firm shall mean all those parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which sell petroleum products in the Commonwealth.

(3) Each firm or part of a firm which operates an on-going business of selling motor gasoline at a retail sales outlet shall be considered a separate firm with respect to each such outlet, and therefore shall be a separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates an on-going business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

(c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to going out of business.

(d) *Transfer of entitlement.* The right to receive an allocation shall not be assignable separately but shall be considered an integral part of the on-going business or established end-use. The right to an allocation shall be deemed to have been transferred to a successor firm.

### § 660.105 Purchaser's allocation entitlement.

(a) *Scope.* This section describes a purchaser's allocation entitlements. Paragraph (b) of this section specifies the volumes of a petroleum product which wholesale purchasers are entitled to receive from suppliers. The method by which wholesale purchasers determine base period volumes is provided in paragraph (c) of this section. Paragraphs (d) and (e) of this section set forth procedures by which new wholesale purchasers and new importer-consumers, respectively determine their entitlements and suppliers. End-users do not have allocation entitlements. If an end-user is unable to locate a supplier or is unable to purchase a volume of a petroleum product sufficient to meet its requirements, it may petition the DOCA for relief pursuant to Part 661.

(b) *Entitlements: wholesale purchasers.* A wholesale purchaser shall be entitled to receive a volume of a petroleum product equal to the sum of the volumes allocable to it from each of its suppliers in the Commonwealth. The volume supplied to a purchaser by each of its suppliers in the Commonwealth shall be the product of that supplier's allocation fraction multiplied by that purchaser's base period use purchased or obtained from that supplier.

(c) *Base period volume determination.* (1)(i) By October 31, 1974, each wholesale purchaser shall certify to each of its suppliers the amount of a petroleum product purchased from that supplier and which it exported or sold for export from the Commonwealth in each base period. If a wholesale purchaser is unable to determine the supplier from which the petroleum product is exported or sold for export was purchased, the wholesale purchaser shall certify to each supplier a pro rata share of the total volume of petroleum product it exported or sold for export in each base period.

(ii) By November 4, 1974, each supplier which sells a petroleum product to a wholesale purchaser shall report to each of its wholesale purchasers with respect to each petroleum product, the volume of petroleum product it sold or transferred to that purchaser in each base period, less any amount reported to the supplier by the wholesale purchaser pursuant to paragraph (c)(1)(i) of this section.

(2) In the event that the purchaser disagrees with the base period volume computed by its supplier, it should make application to the DOCA for a corrected base period volume in accordance with DOCA forms and instructions. Copies of the purchaser's records for base period purchases should be included with the application.

(d) *New wholesale purchasers*—(1) *Mutual arrangements.* (i) Subject to the provisions of paragraph (d)(1)(ii) of this section a wholesale purchaser without a base period supplier or a new supplier as provided in § 660.103(d)(1) and a supplier may agree upon a proposed base period volume for the wholesale purchaser. The base period volume agreed upon shall afford the wholesale purchaser a fair and equitable volume in light of its requirements together with other relevant circumstances including the supplier's supply obligations to its other wholesale purchasers.

(ii) In determining a base period volume, the supplier must notify the DOCA of any such arrangement and the proposed base period volume within ten (10) days of the making of the mutual arrangement, or, with respect to any existing arrangements, within ten (10) days of the effective date of these regulations. The supplier may not provide the wholesale purchaser with petroleum products until he has so notified the DOCA of the mutual arrangement. The DOCA may assign the wholesale purchaser to another supplier and may adjust the proposed base period volume.

(2) *Assignment of supplier.* (i) Any wholesale purchaser which does not have a base period supplier, or new supplier as provided in § 660.103(d)(1), or which is unable to locate a supplier pursuant to paragraph (d)(1) of this section, and any other wholesale purchaser which is otherwise unable to obtain sufficient supplies may petition the DOCA pursuant to Part 661, for the assignment of a supplier and a base period volume.

(ii) Any assignment of a base period volume will be deemed to have been adjusted for growth through the date of the assignment and may be adjusted thereafter under the provisions of § 660.106(b).

(iii) Any wholesale purchaser which is assigned to or accepted by the supplier under the provisions of this part shall be accepted by the supplier for the duration of the program or until otherwise directed by the DOCA.

(e) *New end-user and wholesale purchaser-consumer importer.* End-users and wholesale purchaser-consumers which have not previously imported a petroleum product or which import a petroleum product in excess of the volumes imported in the base period, must report pursuant to § 660.153(b) such imports to the DOCA within five (5) days of receipt of the petroleum product. Unless the DOCA orders a directed sale of the imported petroleum product pursuant to the provisions of § 660.9(a), the importer may retain the petroleum product for its own use.

### § 660.106 Adjustments to base period volumes.

(a) *Scope.* The adjustment procedures under this section are applicable to the allocation of all petroleum products. This section describes the means by which wholesale purchasers may receive

adjustments to their base period volumes.

(b) *Adjustments.* (1) Suppliers shall adjust a wholesale purchaser's base period volume for gasoline or middle distillates without an application of the wholesale purchaser if the supplier's records indicate that the volume of the wholesale purchaser's purchases of that product in a 1973 period corresponding to a base period exceed the base period volume of that product. The increase to the base period volume shall be calculated as the difference between the volume purchased in the 1973 period corresponding to a base period, and the volume purchased in the base period.

(2) Any wholesale purchaser of any petroleum product may apply to the DOCA pursuant to Part 661 for an adjustment to a base period volume for changed circumstances or growth pursuant to forms and instructions issued by the DOCA. Such adjustments shall be based upon applications which are fully supported by detailed facts, figures and other relevant documentation.

**§ 660.107 Allocation of unleaded gasoline.**

(a) *General.* All the provisions of this part shall apply to all substances meeting the definition of motor gasoline, including leaded and unleaded gasoline, without regard to the different characteristics of those substances except as provided in this section.

(b) *Definitions.* For purposes of this section—

"Allocation entitlement" for a wholesale purchaser means its allocation entitlement as described in § 660.105.

"Allocation ratio" means that ratio of a supplier's total supply of unleaded gasoline to the supplier's total supply of motor gasoline (leaded and unleaded).

"Unleaded gasoline" means unleaded gasoline as defined by the Environmental Protection Agency.

(c) *Supplier/purchaser relationships.* In addition to the provisions of § 660.102, a supplier of unleaded gasoline shall further allocate unleaded gasoline in accordance with the provisions of this section to wholesale purchasers which are entitled to receive motor gasoline (whether leaded or unleaded) from that supplier without regard to whether the supplier has previously supplied unleaded gasoline to that purchaser.

(d) *Method of allocation for unleaded gasoline.* (1) For each allocation period each supplier shall make available to each of its wholesale purchasers of motor gasoline a volume of unleaded gasoline which bears the same ratio to that purchaser's allocation entitlement as the supplier's allocation ratio for that period. Suppliers may refuse to supply unleaded gasoline to any wholesale purchaser-reseller which does not have facilities suitable for the storage and delivery of unleaded gasoline, as required by the provisions of 40 CFR Chapter I, Part 80, Subpart B.

(2) No purchaser may be required to accept any quantity of unleaded gasoline in lieu of part or all of its allocation entitlement to motor gasoline for a period which corresponds to a base period.

(3) (i) After its initial offer of unleaded gasoline pursuant to paragraph (d) (1) of this section a supplier shall offer any of its supply of unleaded gasoline which remains only to purchasers which are entitled to receive motor gasoline from that supplier and which desire to purchase unleaded gasoline. New car dealers, fleet owners or operators, or any other wholesale purchaser-consumers which require unleaded gasoline as a greater proportion of their allocation entitlement than the supplier's allocation ratio shall have first priority to any such additional quantities of unleaded gasoline.

(ii) Any supplier with a motor gasoline allocation fraction less than or equal to one (1.0) which has a supply of unleaded gasoline that none of its purchasers entitled to receive motor gasoline from that supplier desire to purchase shall notify the DOCA and may dispose of such supply only with the written consent of the DOCA.

(4) The total volume of leaded and unleaded gasoline which a supplier allocates to a purchaser for an allocation period shall equal the total amount of motor gasoline which the supplier could otherwise allocate to that purchaser pursuant to this part without regard to the provisions of this section.

(5) Any purchaser which has been notified that its supplier will not supply it with unleaded gasoline and which with reasonable diligence cannot otherwise obtain a supply of unleaded gasoline under the provisions of this part, may apply to the DOCA in accordance with DOCA forms and instructions for assignment of a supplier of unleaded gasoline.

(6) DOCA may require recipients of assigned quantities of unleaded gasoline to provide leaded gasoline in exchange for the assigned product.

(e) *Prime suppliers.* Prime suppliers shall make available in their set-aside a ratio of unleaded gasoline to all motor gasoline equal to their allocation ratio.

(f) *Relationship to EPA regulations.* Nothing in this section shall be interpreted to supersede any regulation concerning unleaded gasoline issued by the Environmental Protection Agency, or any regulation issued by the DOCA concerning gasoline.

**§ 660.110 Set-aside system.**

(a) *Purpose and scope.* The DOCA shall establish and administer a set-aside system for all petroleum products. The set-aside shall be utilized by the DOCA to order sales by prime suppliers to meet hardship and emergency requirements of all wholesale purchasers and end-users.

(b) *Definitions.* For purposes of this section—"Percentage set-aside level" means:

(1) for gasoline, three (3%) percent;

(2) for propane, three (3%) percent;

(3) for butane, one (1%) percent;

(4) for middle distillates, four (4%) percent; and

(5) for residual fuel oil, three (3%).

(c) *Prime suppliers*—(i) *Calculation of set-aside volume.* The set-aside volume of a prime supplier of a particular petroleum product shall be calculated by multiplying the prime supplier's estimated allocable supply for the forthcoming allocation period in its capacity as a prime supplier by the percentage set-side level for that product.

(ii) *Reports of set-aside volumes.* Fifteen (15) days prior to the beginning of each allocation period each prime supplier shall calculate its set-aside volume for each petroleum product for the forthcoming allocation period and shall report pursuant to § 660.152 the volume and calculations according to forms and instructions issued by the DOCA.

(iii) *Sales of set-aside volumes.* A supplier must sell a petroleum product from the set-aside volume for a particular month within three (3) days of presentation by a wholesale purchaser or end-user, of a written authorization of the DOCA. No other sale may be made from the set-aside volume. The petroleum product remaining in a prime supplier's set-aside volume at the end of a particular allocation period shall become part of that supplier's total supply for the subsequent allocation period and shall be distributed according to the procedures set forth in this part.

(d) *DOCA action.* If the DOCA approves a hardship or emergency petition submitted by a wholesale purchaser or end-user pursuant to the provisions of Part 661, it shall issue to the petitioner a written authorization to purchase a specified volume from the set-aside volume of a specified prime supplier.

(e) *Changes in percentage set-aside levels.* The Administrator may alter the percentage set-aside level for a particular petroleum product for a particular allocation period through the issuance of an order fifteen (15) days prior to the beginning of that allocation period.

**§ 660.114 Energy conservation.**

Unless otherwise ordered for good cause shown, no wholesale purchaser or end-user shall receive an allocation pursuant to the procedures of Part 661 unless he shall have certified that he has in effect an energy conservation program consistent with the conservation program of the Commonwealth.

## Subpart D—Reporting and Recordkeeping

**§ 660.151 Initial reports.**

(a) By November 15, 1974, each supplier shall report to the DOCA consistent with forms and instructions issued by the DOCA the following information concerning each petroleum product:

(1) Name and address of supplier;

(2) Total sales volume (including internal transfers and volume of its own end-use) for each completed period of 1972, 1973 and 1974 corresponding to a base period; and

(3) The percentage of total sales volume and actual sales volume exported or sold for export for each completed period of 1972, 1973 and 1974 corresponding to a base period.

(b) Notwithstanding the provisions of paragraph (a), information filed in accordance with Regulation No. 41 of the DOCA need not be repeated.

**§ 660.152 Periodic reports.**

(a) Except as provided in paragraph (b), each supplier must file a report for each petroleum product for each allocation period beginning with the allocation period including November 1974 which sets forth the (1) estimated allocable supply, (2) estimated set-aside volume, and (3) the estimated volume of product subject to § 660.103(f). The report, consistent with forms and instructions issued by the DOCA, must be filed with the DOCA fifteen (15) days prior to the beginning of each allocation period; except however, the report for the allocation period including November must be filed by November 1, 1974.

(b) The reporting requirement of paragraph (a) of this section does not apply to:

(1) A supplier to the extent he is subject to § 660.103(g), provided however, that the supplier makes reports pursuant to § 660.153.

(2) Sales by a supplier which sells exclusively to end-users.

**§ 660.153 Other reports.**

(a) *Suppliers without base period supplier/purchaser relationships.* Each supplier subject to § 660.103(g) must file a report for each petroleum product for each allocation period beginning with the allocation period including October 1974. The report, consistent with forms and instructions issued by the DOCA must be filed with the DOCA fifteen (15) days prior to the beginning of each allocation period; except however, the report for the allocation period including November 1974, must be filed by November 1, 1974. The report for each petroleum product shall contain the following information concerning the next allocation period:

(1) Name and address of the supplier submitting the report;

(2) Total estimated inventory;

(3) Estimated volume of exports; and

(4) Estimated volume which it will consume in its capacity as an end-user or wholesale purchaser-consumer.

Pursuant to the provisions of § 660.9 the DOCA may order a directed sale of such petroleum product.

(b) *End-user and wholesale purchaser-consumer importers.* Each end-user and wholesale purchaser-consumer which imports a petroleum product in excess of the volume imported during the base period, and each end-user and wholesale purchaser consumer which did not import a petroleum product prior to January 1, 1974, must report to the DOCA within five (5) days of receipt of that imported petroleum product on forms and instructions issued by the DOCA. These reports shall contain the following information:

(1) Name and address of supplier submitting the report;

(2) The volume received, point of origin, and seller of the imported petroleum product;

(3) The intended use of the import;

(4) The base period volume, current requirements, and the amount purchased or expected to be purchased from suppliers subject to this part in the most recently completed, the current, and the next allocation period; and

(5) The volume of imported petroleum product anticipated to be received in the next allocation period.

Pursuant to the provisions of § 660.9 the DOCA may order the directed sale of such a petroleum product.

(c) *Duplication of information.* Notwithstanding the provisions of paragraph (a) and (b) of this section, information filed in accordance with Regulation No. 41 of the DOCA need not be repeated.

(d) *Additional reports.* Whenever the DOCA considers it necessary for the effective administration of the program it may order any firm to file special or separate reports, setting forth information relating to the DOCA regulations in addition to any other report required by this part.

**§ 660.154 Recordkeeping requirements.**

(a) *General.* Each firm subject to this part shall keep such records that serve as source for the information submitted under this part.

(b) *Inspection.* Records required to be kept under paragraph (a) shall be made available for inspection at any time upon request of a representative of the DOCA.

(c) *Justification.* Upon the request of a representative of the DOCA any supplier which has filed a notice of a proposed method of allocation or makes a sale subject to the allocation regulations of this part shall:

(1) Specify the records that it is maintaining to comply with this paragraph; and

(2) Justify that action pursuant to the allocation provisions of this part.

(d) *Period for keeping records.* Each firm required to keep records under this paragraph shall maintain and preserve those records for at least four (4) years after the last day of the calendar year in which the transaction or other events recorded in the record occurred or the property was acquired by that firm whichever is later.

## Subpart E—Prenotification

**§ 660.181 Implementation of prenotification.**

(a) Upon a finding by the DOCA that the purposes and goals of the allocation program and the Act would be furthered by prenotification of the proposed method of allocation of each petroleum product by each supplier, the DOCA shall issue an order requiring prenotification pursuant to the provisions of this subpart.

(b) The provisions of this subpart are not effective unless implemented by a DOCA order.

**§ 660.182 Prenotification.**

(a) *Prenotification requirement.* Except as provided in paragraph (b) of this section, each supplier shall file a notice of the proposed method of allocation for each petroleum product with the DOCA fifteen (15) days prior to the beginning of the allocation period in which the proposed sales are to be made.

(b) *Waiver of prenotification.* The prenotification requirements of paragraph (a) of this section do not apply to:

(1) A supplier to the extent he is subject to § 660.103(g), provided however, that the supplier makes periodic reports pursuant to § 660.153.

(c) *Notification to wholesale purchaser-resellers.* Eighteen (18) days prior to the beginning of each allocation period each supplier shall notify each of its wholesale purchaser-resellers in writing of its allocation entitlement for the next allocation period. Notification will not be considered to have been made until it is received by the wholesale purchaser-reseller.

**§ 660.183 Manner of prenotification.**

The notice of the proposed method of allocation must be filed with the DOCA by each supplier for each petroleum product in accordance with forms and instructions issued by the DOCA.

**§ 660.184 Measure of the prenotification period.**

The fifteen (15) day prenotification period will begin on the first day following the date of filing of the proposed allocation method which is not a Friday, Saturday or Sunday.

**§ 660.185 DOCA action.**

(a) During the fifteen (15) day prenotification period the DOCA may issue an order disapproving, modifying, or suspending a proposed allocation plan in whole or in part.

(1) The DOCA may issue an order disapproving or modifying a proposed allocation plan in whole or in part if it finds:

(i) That the proposed method of allocation does not conform to the rules of this part;

(ii) That if allocation were made pursuant to the plan submitted undue hardship or inequity would result to a particular sector of the economy, or it would be unreasonably inconsistent with the purposes and goals of the Act or regulations; or

(iii) That area imbalances would result due to weather variation, seasonal demand, or other circumstances beyond the control of the sellers or purchasers.

(2) The DOCA may issue an order temporarily suspending the running of the fifteen (15) day prenotification period if it finds that additional information is necessary or that the form was improperly filed.

(b) The DOCA may issue an order directing the surplus product reported pursuant to the provisions of § 660.103 (f) be sold to a particular supplier, wholesale purchaser or end-user, be added to the supplier's set-aside volume, or be held in inventory for a specified period of time, in order to meet the purpose and goals and objectives of the Act or regulations.

**§ 660.186 Implementation of proposed allocation plan.**

(a) If the DOCA does not act upon the proposed allocation plan pursuant to § 660.185 and prior to the first day of the allocation period the plan may be implemented upon the first day of the allocation period.

(b) If the DOCA does not act pursuant to § 660.185 concerning surplus product reported pursuant to § 660.183 the surplus may be sold for consumption in the Commonwealth to any purchaser, at the discretion of the supplier.

(c) Failure of the DOCA to act upon the proposed method of allocation prior to the first day of the allocation period does not constitute approval of the proposal, and nothing in this part shall be construed to limit the authority of the DOCA to modify, suspend or disapprove the continuation of the proposed plan in whole or in part, if the DOCA finds that:

(1) The plan does not conform to the rules of this part; or

(2) The plan would result in undue hardship or inequity to a particular firm or to a particular sector of the economy of the Commonwealth or would be unreasonably inconsistent with the purpose and goals of the Act or the DOCA.

[FR Doc.74-22060 Filed 9-20-74;8:45 am]

## FEDERAL HOME LOAN BANK BOARD

### [ 12 CFR Part 545 ]

[No. 74-930]

### FEDERAL SAVINGS AND LOAN SYSTEM

#### Branch Office Applications

SEPTEMBER 13, 1974.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 545.14 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14) in order to permit a Federal savings and loan association that has had two branch applications denied within the preceding twelve months to refile in cases where another Federal association has filed for any substantial part of the same savings service area. By a companion Resolution (Resolution No. 74-931 dated Sept. 13, 1974), the Board proposes a similar amendment to Part 582 of the regulations for District of Columbia Savings and Loan Associations and Branch Offices (12 CFR Part 582).

The present § 545.14(b)(1)(ii) requires that before a Federal association may have a branch application considered 12 months must have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area. However, this reqiurement is applicable only if such Federal association has filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications were disapproved by the Board. The proposal would allow such a Federal association which would otherwise be prohibited from filing an application for 12 months if another savings and loan association, savings bank, or similar insitution has filed an application to establish a branch in any substantial part of the same savings service area. An additional result of the proposal would be a clarification of the present language in § 545.14(b)(1)(ii).

Accordingly, the Board hereby proposes to amend § 545.14 by revising paragraph (b)(1)(ii) thereto, to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by October 9, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

**§ 545.14 Branch office.**

* * * * *

(b) *Eligibility.* (1) Except as provided in paragraph (b)(2) of this section, a Federal association shall be eligible to have an application for permission to establish a branch office (including an application for a limited facility branch office) considered and processed only if, at the date on which such application is filed with the Board:

* * * * *

(ii) Two such applications, whereby such association proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) have not been disapproved by the Board during the 24 months preceding such date unless at least 12 months have elapsed since the most recent disapproval. However, if two such applications by such association have been disapproved during the 24 months preceding such date, either of such disapproved applications will be considered and processed upon refiling if any other savings and loan association, savings bank, or similar institution files such an application whereby it proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) within 12 months since the most recent disapproval.

* * * * *

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

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, JR.,
*Assistant Secretary.*

[FR Doc.74-22014 Filed 9-20-74;8:45 am]

### [ 12 CFR Part 582 ]

[No. 74-931]

### DISTRICT OF COLUMBIA SAVINGS AND LOAN ASSOCIATIONS AND BRANCH OFFICES

#### Branch Office Applications

SEPTEMBER 13, 1974.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 582.1 of the Regulations for the District of Columbia Savings and Loan Associations and Branch Offices (12 CFR 582.1) in order to permit a savings and loan association that has had two branch applications denied within the preceding twelve months to refile in cases where another association has filed for any substantial part of the same savings service area. By a companion Resolution (Resolution No. 74-930 dated Sept. 13, 1974), the Board proposes a similar amendment to Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545).

The present § 582.1(b)(ii) requires that before an association may have a branch application considered 12 months must have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area. However, this requirement is applicable only if such association has filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications were disapproved by the Board. The proposal would allow such an association which would otherwise be prohibited from filing an application for 12 months to do so if another savings and loan association, savings bank, or similar institution has filed an application to establish a branch in any substantial part of the same savings service area. An additional result of the proposal would be a clarification of the present language in § 582.1(b)(ii).

Accordingly, the Board hereby proposes to amend § 582.1 by revising paragraph (b)(ii) thereto, to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street NW., Washington, D.C. 20552, by October 9, 1974, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

**§ 582.1 Branch offices.**

* * * * *

(b) *Eligibility.* (1) Except as provided in paragraph (b)(2) of this section, an association shall be eligible to have an application for permission to establish

a branch office (including an application for a limited facility branch office) considered and processed only if, at the date on which such application is filed with the Board:

* * * * *

(ii) Two such applications, whereby such association proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) have not been disapproved by the Board during the 24 months preceding such date unless at least 12 months have elapsed since the most recent disapproval. However, if two such applications by such association have been disapproved during the 24 months preceding such date, either of such disapproved applications will be considered and processed upon refiling if any other savings and loan association, savings bank, or similar institution files such an application whereby it proposes to serve any substantial part of the same savings service area (as determined by the Supervisory Agent) within 12 months since the most recent disapproval.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; Sec. 8, 48 Stat. 132, as added by Sec. 913, 84 Stat. 1815; 12 U.S.C. 1464, 1466a. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
*Assistant Secretary.*

[FR Doc.74-22015 Filed 9-20-74;8:45 am]

## NATIONAL LABOR RELATIONS BOARD

### [29 CFR Part 103]

### PRIVATE SECONDARY AND ELEMENTARY SCHOOLS AND PRESCHOOLS

#### Proposed Declination of Jurisdiction

The National Labor Relations Board, pursuant to the authority vested in it by Section 6 of the National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. Sec. 156), and in accordance with the provisions of Section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. Sec. 553), publishes this notice that it is giving consideration to issuance of a rule (Part 103, Subpart A—Jurisdictional Standards) amending the Board's Rules and Regulations, Series 8, as amended, by adding thereto, as § 103.4, language providing that the Board will decline to assert jurisdiction for any purposes over private secondary and elementary schools and preschools.

Proposed rule:

**§ 103.4 Secondary, elementary and preschool educational institutions.**

The Board will decline to assert jurisdiction in any proceeding under sections 8, 9, and 10 of the Act involving any private educational institution at the secondary, elementary, or preschool level which provides educational programs generally comparable to those offered by public school systems.

All persons who desire to submit written comments, views, or arguments for consideration in relation to the proposed rule should file 15 copies of the same, on or before October 23, 1974, with the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570. Copies of such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary of the Board, Room 701, 1717 Pennsylvania Avenue, NW., Washington, D.C.

Dated, Washington, D.C., September 23, 1974.

By direction of the Board:

JOHN C. TRUESDALE,
*Executive Secretary.*

EXPLANATORY NOTE

The jurisdiction of the National Labor Relations Board under section 9 of the National Labor Relations Act, as amended,[1] to determine questions concerning representation, and under Section 10 of the Act, to prevent unfair labor practices, extends to all such matters which "affect commerce" as defined in Section 2(7) of the Act.[2] Under section 14(c) of the Act,[3] the Board, in its discretion, may decline to assert jurisdiction over labor disputes involving any class or category of employers if such labor disputes will not have a substantial impact on commerce and provided that it had not asserted jurisdiction over such class or category prior to August 1, 1959.

The proposed rule would reverse existing case precedent[4] by which the Board had previously set a jurisdictional standard of $1 million annual gross revenue with respect to private secondary schools (both profit and nonprofit) for assertion of jurisdiction. In addition, under the proposed rule, jurisdiction would also be declined over private elementary schools and private preschools. However, the Board does not intend by this proposal to decline to assert jurisdiction over trade or technical schools such as secretarial schools, welding schools, beauticians schools, etc., which otherwise meet the appropriate jurisdictional standard.[5]

Issuance of the proposed rule is prompted by such factors as: the relatively insubstantial impact on commerce of labor disputes involving private secondary and elementary schools; the extensive state regulation and control of nonpublic schools which approximately parallel that of the public school system; the essentially local nature of secondary and elementary school operations; and the necessity for optimum utilization of Board resources.

As to the insubstantial impact on commerce factor, the operations of private secondary and elementary schools constitute a relatively small portion of our educational structure. Preliminary governmental statistical data for 1971 indicate that there were approximately 109,000 elementary and secondary schools in the United States of which in excess of 90,000 or over 80 percent were public schools, and that nearly 90 percent of the total number of students in such category were enrolled in the public schools.[6] Further, according to the Council of State Governments, both the number of and enrollment in private schools were declining primarily due to financial considerations. Since the vast and growing majority of secondary and elementary schools are public and excluded from our jurisdiction by Section 2(2) of the Act, the private school sector, at least in the secondary and elementary schools (grade 12 and below) is diminishing in significance.[7] It thus appears that the operations of private secondary and elementary schools, whether considered individually or collectively, do not appear to have a pronounced impact on commerce nor do labor disputes in such schools result in a significant obstruction to commerce or the instrumentalities of commerce.

Indicative of the extensive state regulation and control is the circumstance that approximately 250 provisions in state constitutions directly related to nonpublic schools and approximately 500 provisions in state codes also directly related to nonpublic schools.[8] Virtually all States require attendance in an approved school and in so doing directly or indirectly control the curriculum, term, teacher certification, accreditation, and health and safety standards.[9] Other programs such as free bus service, school lunches, and textbook subsidies are often geared to schools approved or accredited by the State. The Board previously declined to assert jurisdiction in the horseracing and dogracing industries, in part because of extensive state regulation and control.[10]

The operations of the private secondary and elementary school system are inherently local in nature and in impact due in large part to the high degree of local concern as evidence by the input and involvement of parents, teachers, and administrators and other concerned groups. In public school operations, Congress has given recognition to the deep local interest and makes its appropriations to the States and the school boards. It thus appears that the operations of such schools would have essentially a local impact.

With respect to optimum utilization of Board resources as it relates to the exercise of its discretionary jurisdiction, the Board has consistently taken the posi-

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[1] 61 Stat. 140, 143, 146, 29 U.S.C. Secs. 158, 159, 160.

[2] 61 Stat. 137, 29 U.S.C. Sec. 1527)). See *N.L.R.B.* v. *Fainblatt*, 306 U.S. 601.

[3] 29 U.S.C. Sec. 164.

[4] *The Windsor School, Inc.*, 200 NLRB No. 163; *Shattuck School*, 189 NLRB 886.

[5] See *National College of Business*, 186 NLRB 490, as modified by *Windsor School*, *supra*, fn. 5.

[6] *Statistical Abstract of the United States*, 1973, p. 104.

[7] Council of State Governments, *Book of the States*, 1972–73, p. 297.

[8] Werkma, Gordon R., *Law and the Non-Public School*, 1964.

[9] *Ibid.*

[10] Sec. 103.3, Rules and Regulations of the National Labor Relations Board, p. 208–209.

tion "that it would better effectuate the purposes of the Act, and promote the prompt handling of major cases, not to exercise its jurisdiction to the fullest extent possible under the authority delegated to it by Congress, but to limit that exercise to enterprises whose operations have, or at which labor disputes would have, a pronounced impact upon the flow of interstate commerce." [11] The Board is of the preliminary view, therefore, that declination of jurisdiction over private secondary schools and below is also warranted in view of its expanding caseload [12] and limited resources available to it and such action would constitute a prudent exercise of its discretionary jurisdiction.

The views of educational institutions and associations, of labor organizations, and of the public are solicited to assist the Board in making a final determination as to whether or not to implement the proposed rule on jurisdictional standards for secondary and elementary schools and preschools. Interested parties are invited to address themselves to the proposed rule and to submit any pertinent and relevant data in support of, or in opposition to, the proposed rule change.

It is the intention of the Board to apply such rule as may be adopted to all proceedings pending at the time of adoption thereof, as well as to all proceedings which arise thereafter. As to all complaint cases, however, in which a decision has already issued, the Board will proceed with compliance, enforcement and contempt proceedings, depending upon the status of the case, without regard to whether the particular case meets the revised jurisdictional standards.

Member Fanning, notwithstanding his doubts about the correctness or adequacy of some of the explanations advanced for the publication of this proposed rule joined in directing its publication. It is his hope that interested parties will address themselves to the question of the authority of the Board to take the proposed action as well as to the question of the wisdom of such course of action.

[FR Doc.74-21999 Filed 9-20-74;8:45 am]

[11] *Hollow Tree Lumber Company*, 91 NLRB 635, 636. See also *Floridan Hotel of Tampa, Inc.*, 124 NLRB 261, 264.

[12] In fiscal 1974, the Agency docketed 27,715 unfair labor practice charges and 14,069 representation petitions and miscellaneous other cases for a total of 42,351 cases. In addition to the normal increase in these cases, we also tinent and relevant data in support of, cases involving nonprofit hospitals which, effective August 25, 1974, are now within our jurisdiction.

## SECURITIES AND EXCHANGE COMMISSION

### [ 17 CFR Part 240 ]

[Release No. 34-11014; File No. S7-432]

### QUOTATIONS OF SPECIALISTS AND OVER-THE-COUNTER MARKET MAKERS

#### Extension of Time

On August 14, 1974, the Commission published for comment proposed Rule 17a-14 (39 FR 31920, September 3, 1974), which would provide that every registered national securities exchange and national securities association having one or more members which act as market makers or specialists in listed securities must report to the Commission quotations of their respective members in such securities, and every broker-dealer which acts as a market maker in listed securities must report to the Commission its quotations, in each case by making such quotations available on a realtime, current and continuing basis in accordance with the terms and provisions of a plan providing for the collection, processing and dissemination of such quotations filed with and declared effective by the Commission (Securities Exchange Act Release No. 10969). The time originally specified for submitting such comments expires on September 16, 1974.

In view of requests for additional time within which to submit comments on the proposed amendment, the Commission has determined to extend the time for submitting comments thereon to September 30, 1974. All interested persons are invited to submit their comments in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 on or before September 30, 1974. Such communications should refer to File No. S7-432 and will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 16, 1974.

[FR Doc.74-21949 Filed 9-20-74;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.

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 74-14]

### PHILLIP A. FAIX

### Notice of Hearing

Notice is hereby given that on June 3, 1974, the Drug Enforcement Administration, Department of Justice, issued to Phillip A. Faix, M.D., Pittsburgh, Pennsylvania, an order to show cause as to why the Drug Enforcement Administration registration No. AF0411392 issued to the Respondent pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since said order was received by the Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on September 24, 1974, in Room 1210, 1405 Eye Street NW., Washington, D.C.

Dated: September 16, 1974.

ANDREW C. TARTAGLINO,
*Acting Deputy Administrator, Drug Enforcement Administration.*

[FR Doc.74-22135 Filed 9-20-74;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bonneville Power Administration

### BONNEVILLE REGIONAL ADVISORY COUNCIL

### Notice of Public Meetings

The Bonneville Regional Advisory Council will hold a series of regional meetings to discuss the energy situation in the Pacific Northwest. The dates and places of the meetings are as follows:

Tuesday, October 8—Burley, Idaho (Ponderosa Inn).
Thursday, October 10—Spokane, Wash. (Ridpath Hotel).
Friday, October 11—Walla Walla, Wash. (Black Angus Motor Inn).
Thursday, October 17—Portland, Oregon (Sheraton-Portland Hotel).
Monday, October 21—Seattle, Wash. (University Tower Hotel).

Each meeting will begin at 9:30 a.m. and will be open to interested members of the public. There is no registration fee, but there will be a charge for the no-host luncheon.

The main purpose of the meeting will be to discuss the near-term power outlook, the proposed BPA rate increase, Phase 2 of the regional Hydro-Thermal Power Program, and land use planning as it relates to the regional power supply system.

The regional meetings of the Bonneville Regional Advisory Council provide a general forum for the free exchange of ideas as to the best ways of utilizing the energy resources of the region.

Copies of the proceedings of each meeting will be furnished on request to the Executive Secretary, Bonneville Regional Advisory Council, P.O. Box 3621, Portland, Oregon 97208.

Dated: September 13, 1974.

DAN W. SCHAUSTEN,
*Executive Secretary, Bonneville Regional Advisory Council.*

[FR Doc.74-21967 Filed 9-20-74;8:45 am]

### Bureau of Land Management

[CA 2268]

### CALIFORNIA

### Proposed Withdrawal and Reservation of Lands

The Bureau of Reclamation, U.S. Department of the Interior, has filed an application, serial number CA 2268, for the withdrawal of public lands described below, from all forms of appropriation under the public land laws including the mining laws but not the mineral leasing laws. The lands will be used for the improvement and enlargement of a dike, and for the operation and maintenance of Clear Lake Reservoir.

The lands are located within the Modoc National Forest and are to be used for the continuation of and a part of the Klamath Project.

On or before October 20, 1974, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration of the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO BASE AND MERIDIAN, CALIFORNIA

MODOC NATIONAL FOREST

T. 46 N., R. 7 E.,
Sec. 27, SE¼SW¼, SW¼SE¼.

The area described aggregates approximately 80 acres in Modoc County.

WALTER F. HOLMES,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.74-22007 Filed 9-20-74;8:45 am]

[NM 20420]

### NEW MEXICO

### Notice of Application

SEPTEMBER 16, 1974.

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 Company has applied for a dehydration site right-of-way on the following lands;

NEW MEXICO PRINCIPAL MERIDIAN
NEW MEXICO

T. 10 S., R. 29 E.,
Sec. 1, SW¼SW¼;
Sec. 12, NW¼NW¼.

The area of the dehydration site is 5.0 acres on national resource lands in Chaves County, New Mexico.

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, New Mexico 88201.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc.74-22004 Filed 9-20-74;8:45 am]

## National Park Service

### NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

#### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Monday, October 7, 1974 in the Training Center, Classroom B, at the National Capital Parks Headquarters, 1100 Ohio Drive, SW., Washington, D.C.

The committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital region.

The members of the committee are as follows:

Mr. Ronald H. Walker (Chairman)
Director, National Park Service
Washington, D.C.

Mr. George M. White
Architect of the Capitol
Washington, D.C.

General Mark W. Clark
Chairman, American Battle Monuments Commission
Washington, D.C.

Mr. J. Carter Brown
Chairman, Fine Arts Commission
Washington, D.C.

Mr. William H. Press
Chairman, National Capital Planning Commission
Washington, D.C.

Honorable Walter E. Washington
Mayor-Commissioner of the District of Columbia
Washington, D.C.

Mr. Larry F. Roush
Commissioner, Public Buildings Service
Washington, D.C.

The purpose of this meeting is to review draft criteria and guidelines and policies for memorializing persons and events on Federal lands in the National Capital region.

The meeting will be open to the public. Any person may file with the committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Richard L. Stanton, Associate Director, Cooperative Activities, National Capital Parks, at area code 202–426–6715. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at the Office of National Capital Parks, Room 208, 1100 Ohio Drive, SW., Washington, D.C.

Dated: September 12, 1974.

MANUS J. FISH, JR.,
*Director, National Capital Parks.*

[FR Doc.74–22076 Filed 9–20–74;8:45 am]

## Office of the Secretary

[INT FES 74–53]

### PROPOSED ACQUISITION OF MERCER SLOUGH ECOLOGICAL AREA

#### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Outdoor Recreation, in cooperation with the City of Bellevue and the Washington Interagency Committee for Outdoor Recreation, has prepared a final environmental statement for a proposed acquisition of Mercer Slough Ecological Area. The Notice of Availability inviting comments on the Draft Environmental Impact Statement was published in the FEDERAL REGISTER on June 14, 1974.

The proposed project is to acquire 181 acres of marshland for preservation and minimal recreation development. The project is located within the city limits of Bellevue, Washington, near the interchange between Interstate #90 and Interstate #405, being the major north-south and east-west freeways of the State.

Copies are available for inspection at the following locations:

Bureau of Outdoor Recreation, Northwest Regional Office, 1000 Second Avenue, Seattle, Washington 98104.
Bureau of Outdoor Recreation, Division of State Programs, Department of the Interior, Washington, D.C. 20240.
Washington Interagency Committee for Outdoor Recreation, 4800 Capitol Boulevard, Tumwater, Washington 98504.
City of Bellevue, Planning Department, 111–116th Street S.E., Bellevue, Washington 98004.

Copies may be obtained by writing the Regional Director, Northwest Region, Bureau of Outdoor Recreation, 1000 Second Avenue, Seattle, Washington 98104. Please refer to the statement number above.

Dated: September 13, 1974.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.74–21942 Filed 9–20–74;8:45 am]

[INT DES 74–86]

### PROPOSED BIG LAKE WILDERNESS AREA, ARKANSAS

#### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the Department of the Interior has prepared a draft environmental statement for the proposed Big Lake Wilderness Area, Arkansas, and invites written comments on or before November 7, 1974.

The proposal recommends that 1,818 acres of the Big Lake National Wildlife Refuge, located in Mississippi County, Arkansas be included in the National Wilderness Preservation System.

Copies of the draft statement are available for inspection at the following locations:

U.S. Fish and Wildlife Service
17 Executive Park Drive, NE.
Atlanta, Georgia 30329

Big Lake National Wildlife Refuge
Box 67
Manila, Arkansas 72442

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2254
18th and C Streets, N.W.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Coordination. Please refer to the statement number above.

Dated: September 17, 1974.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.74–22005 Filed 9–20–74;8:45 am]

[INT FES 74–56]

### PROPOSED UNIMAK WILDERNESS ALEUTIAN ISLANDS NATIONAL WILDLIFE REFUGE, ALASKA

#### Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the Department of the Interior has prepared a final environmental statement which proposes that approximately 973,000 acres of the 998,260-acre Unimak Island in the Aleutian Islands National Wildlife Refuge, Third Judicial Division, Alaska, be designated as wilderness within the National Wilderness Preservation System. An additional 10 acres of private land is proposed for potential wilderness addition, to be added to the wilderness unit through acquisition at a future date.

Copies of the final statement are available for inspection at the following locations:

U.S. Fish and Wildlife Service
6917 Seward Highway
Anchorage, Alaska 99502

Headquarters
Aleutian Islands National Wildlife Refuge
Box 5251
Adak, Alaska 98791

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
18th and C Streets, NW., Room 2252
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets, Washington, D.C. 20240. Please refer to the statement number.

STANLEY D. DOREMUS,
*Deputy Assistant Secretary of the Interior.*

SEPTEMBER 16, 1974.

[FR Doc.74-21943 Filed 9-20-74;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

[Notice No. 86]

### GRAPES, NEW YORK AND PENNSYLVANIA

### Extension of the Closing Date for Filing of Applications for the 1975 Crop Year

Pursuant to the authority contained in § 411.3 of Title 7 of the Code of Federal Regulations, and pursuant to paragraph (1) of the resolution adopted by the Board of Directors of the Federal Crop Insurance Corporation on March 19, 1954, the time for filing applications for grape crop insurance for the 1975 crop year in all counties in New York and Pennsylvania where such insurance is otherwise authorized to be offered is hereby extended until the close of business on December 14, 1974. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

[SEAL] D. W. MCELWRATH,
*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc.74-21972 Filed 9-20-74;8:45 am]

### Forest Service

### DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

### Notice of Meeting

The Deschutes National Forest Advisory Committee will meet at 6:30 p.m. October 10, 1974, for a no host dinner at the Black Forest restaurant, Bend, Oregon (located on the Cascade-Lakes Highway and 14th Street). The program will follow at 8 p.m.

The subject to be discussed at this meeting will be the Environmental Program for the Future (EPFF) as it relates to the Deschutes National Forest land use long range planning and programming. This will be presented by Assistant Forest Supervisor (Planning and Programming), William Shenk.

The meeting will be open to the public.

Dated: September 13, 1974.

EARL E. NICHOLS,
*Forest Supervisor.*

[FR Doc.74-22003 Filed 9-20-74;8:45 am]

### Packers and Stockyards Administration

### DOTHAN LIVESTOCK AUCTION, INC. ET AL.

### Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AL-159, Dothan Livestock Auction, Inc., Dothan, Alabama.
AL-157, Casey Stock Yard, Inc., Montgomery, Alabama.
AL-158, Cleburne County Livestock Sales, Inc., Ranburne, Alabama.
IA-251, Crescent Comm. Co., Crescent, Iowa.
MT-117, Great Falls Livestock Market Center, Great Falls, Montana.
TX-307, Bode's Livestock Commission Company, Milano, Texas.
WV-118, United Livestock Sales Company, Parkersburg, West Virginia.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et. seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by October 8, 1974.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 17th day of September 1974.

EDWARD L. THOMPSON,
*Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.*

[FR Doc.74-22052 Filed 9-20-74;8:45 am]

### Soil Conservation Service

### LAKEVIEW WATERSHED, TEXAS

### Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Floodwater Retarding Structure Nos. 1 and 2, Lakeview Watershed Project, Hall and Donley Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The proposal concerns plans for installing two floodwater retarding structures in the Lakeview Watershed, Hall and Donley Counties, Texas.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

No administrative action on implementation of the proposal will be taken until October 8, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

SEPTEMBER 13, 1974.

[FR Doc.74-21934 Filed 9-20-74;8:45 am]

### LYE CREEK DRAIN WATERSHED PROJECT, INDIANA

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines; and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19651), June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Lye Creek Drain Watershed Project, Montgomery County, Indiana, USDA-SCS-EIS-WS-(ADM)-75-1(D)-IN.

The environmental statement concerns a plan for watershed protection, flood prevention, and drainage. The planned works of improvement include conservation land treatment, supplemented by channel work. Structural measures will consist of 11.3 miles of multiple purpose flood prevention and drainage channel work. The work will be for deepening and enlargement for 10.2 miles and debris removal only for 1.1 miles. All work will be performed on intermittent, manmade or modified channels. Floodwater damages will be reduced by 84 percent with the installation of the proposed measures; 3,320 acres will benefit from joint floodwater-drainage relief.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Cletus J. Gillman, State Conservationist, Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224.

Comments must be received on or before November 15, 1974, to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Service)

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

SEPTEMBER 13, 1974.

[FR Doc.74-21936 Filed 9-20-74;8:45 am]

## MILL CREEK WATERSHED, TEXAS

### Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Multipurpose Structure No. 1, Mill Creek Watershed Project, Van Zandt County, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The proposal concerns plans for installing one multipurpose structure in the Mill Creek Watershed, Van Zandt County, Texas. The structure will provide storage capacity for flood prevention, sediment accumulation, municipal water for the City of Canton and public water-based recreation. Basic recreational facilities will be installed around the reservoir.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501.

No administrative action on implementation of the proposal will be taken until October 8, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

SEPTEMBER 13, 1974.

[FR Doc.74-21935 Filed 9-20-74;8:45 am]

## PIERCE CREEK NO. 2 WATERSHED PROJECT, IOWA

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969: Part 1500 of the Council on Environmental Quality Guidelines; and § 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19651), June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Pierce Creek No. 2 Watershed Project, Page and Montgomery Counties, Iowa, USDA-SCS-EIS-WS-(ADM)-75-1-(D)-IA.

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment and 9 grade stabilization structures.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 823 Federal Building, Des Moines, Iowa 50309.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Wilson T. Moon, State Conservationist, Soil Conservation Service, 823 Federal Building, Des Moines, Iowa 50309.

Comments must be received on or before November 8, 1974, in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

SEPTEMBER 13, 1974.

[FR Doc.74-21937 Filed 9-20-74;8:45 am]

# DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

## COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Technology Transfer Subgroup of the Computer Systems Technical Advisory Committee will be held Tuesday, October 8, 1974, at 9:30 a.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks by Henry S. Forrest, Chairman.
2. Presentation of papers or comments by the public.
3. Report on the work program.
4. Discussion of other necessary work assignments.
5. Executive Session:
a. Discussion of and progress report on the work program.

The public will be permitted to attend the discussion of agenda items 1-4, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 5, "Executive Session," the Assistant Secretary of Commerce for Administration, on May 16, 1974, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Henry S. Forrest, Control Data Corpoartion, 6003 Executive Blvd., Rockville, Maryland 20852 (AC 301/770-8320).

Dated: September 18, 1974.

RAUER H. MEYER,
*Acting Director, Bureau of East-West Trade.*

[FR Doc.74-21991 Filed 9-20-74;8:45 am]

### National Oceanic and Atmospheric Administration

### ALASKA

#### Determination of Commercial Fishery Failure Due to Resource Disaster Arising from Natural Causes

SEPTEMBER 17, 1974.

Whereas, many individuals and firms in Alaska are engaged in harvesting, processing, and marketing sockeye salmon to meet consumer demands; and

Whereas, the sockeye salmon resource in Bristol Bay makes an important contribution to the economy of the State and comprises almost one-half of the total United States harvest of this species; and

Whereas, the residents of Bristol Bay depend primarily on this fishery for their total income and subsistence; and

Whereas, mortalities of juvenile sockeye salmon from unusually severe climatic conditions in Bristol Bay in 1971 and 1972 resulted in commercial catches in 1973 and 1974 which were the lowest in the more than 80 year history of the commercial fishery; and

Whereas, the poor catches in 1973, the necessity of fishing closures in 1974, and planned curtailment of harvesting activities in 1975, will have a serious effect on the economic well being of Bristol Bay residents; and

Whereas, rehabilitation of the resource can be expedited through the construction of rearing facilities which will supplement natural reproduction;

Now, therefore, as the authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster arising from natural causes within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act, as amended, (16 U.S.C. 779(b)), I hereby authorize the use of funds under subsection 4(b) of this Act, when available, for the rehabilitation of the sockeye salmon resource in Bristol Bay, Alaska.

ROBERT M. WHITE,
*Administrator.*

[FR Doc.74-21973 Filed 9-20-74;8:45 am]

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### Social and Economic Statistics Administration

### CENSUS ADVISORY COMMITTEE ON STATE AND LOCAL GOVERNMENTS STATISTICS

#### Notice of Meeting

The Census Advisory Committee on State and Local Governments Statistics will convene on October 11, 1974 at 9:15 a.m. The Committee will meet in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on State and Local Governments Statistics was established in October 1948 to advise the Director, Bureau of the Census on planning current work and various censuses of Governments, and to advise on where the needs of users of the statistics could be served better.

The Committee is composed of ten members appointed by the Secretary of Commerce, and five members appointed by the organization they represent.

The agenda for the meeting is: (1) topics of current interest including staff changes and major program developments, (2) Criminal justice and election statistics, including national surveys of court organization and court caseloads, juvenile detention and corrections facilities studies, and pretest surveys of election expenditures and voting participation, (3) Composite finances in selected city areas, (4) Application of census data to local government problems, (5) Application of Governments Division data by a public finance organization, (6) Status report on Governments Division including the 1973 General Revenue Sharing Survey and the 1972 Census of Governments, and (7) Planning for the 1977 Census of Governments.

A limited number of seats, approximately 15, will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact Mr. Sherman Landau, Acting Division Chief, Governments Division, Bureau of the Census, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233) Telephone: 301-763-7502.

VINCENT P. BARABBA,
*Director, Bureau of the Census.*

[FR Doc.74-21974 Filed 9-20-74;8:45 am]

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### IMMUNIZATION PRACTICES ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Director, Center for Disease Control, announces the meeting dates and other required information for the following National Advisory body which is scheduled to assemble during the month of October 1974.

| Committee name | Date, time, place | Type of meeting and/or contact person |
|---|---|---|
| Immunization Practices Advisory Committee. | October 17-18, 1974, 8:30 a.m., Room 207, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333. | Open: October 17, 1974, 8:30 to 11:00 a.m. Closed: October 17, 1974, 11:00 a.m. to end of day. Open: October 18, 1974. Contact: Dr. H. Bruce Dull, Room 224, Bldg. 1, Center for Disease Control, Atlanta, Ga. 30333. Code: 404, 633-3311, Ext. 3701. |

*Purpose.* The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

*Agenda.* From 8:30 a.m. to 11:00 a.m. on October 17 and from 8:30 a.m. to the end of the meeting on October 18, the meeting will be open for consideration of the status of selected immunizable diseases and continuation of its annual review of recommendations on the use of vaccines in public health practice. From 11:00 a.m. to the end of the meeting on October 17, the Committee will review information on various biological products including their preparation, dosage, potency, and effectiveness. In that preliminary, unpublished results from the testing and evaluation of individual producers' products are involved, much of the discussion will relate to trade secrets, commercial, or financial information which constitutes privileged or confidential matter under 5 U.S.C. 552 (b)(4). This session will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Pub. L. 92-463, section 10(d).

Agenda items are subject to change as priorities dictate.

A portion of the meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 13, 1974.

DAVID J. SENCER,
*Director, Center for Disease Control.*

[FR Doc.74-22002 Filed 9-20-74;8:45 am]

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### Health Resources Administration

### NATIONAL COMMITTEE ON VITAL HEALTH STATISTICS

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act, (P.L. 92-463), the Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory body scheduled to assemble during the month of October 1974:

| Committee name | Date, time, place | Type of meeting and/or contact person |
|---|---|---|
| U.S. National Committee on Vital and Health Statistics. | Oct. 29-30, 1974, 9:30 a.m., room 200, Brookings Institution, Washington, D.C. | Open—contact Dr. I. M. Moriyama, room 8A-54, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., code 301-443-1640. |

*Purpose.* To delineate statistical problems on public health importance which are of national or international interest; review findings submitted by other organizations and agencies; make recommendations for national and/or international adoption; cooperate with and advise other organizations on matters relating to vital and health statistics in the U.S.; and cooperate with national committees of other countries, and with the World Health Organization and other international agencies, in the study of problems of mutual interest.

*Agenda.* Discussion items include the consideration of statistics needed to ascertain the effects of environment on health; study of uses of disease classification for various purposes; analytical potentialities of National Center for Health Statistics data; the implementation of additional responsibilities given to the National Committee by P.L. 93–353; quality of medical care; and needed statistics and data systems on preventable diseases and deaths (indexes).

Agenda items are subject to change as priorities dictate.

Anyone wishing to participate, obtain a roster of members, or other relevant information should contact the person listed above.

Dated: September 16, 1974.

DANIEL F. WHITESIDE,
*Associate Administrator for Operations and Management.*

[FR Doc.74-21880 Filed 9-20-74;8:45 am]

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## Office of the Secretary

## OFFICE FOR CIVIL RIGHTS

### Statement of Organization, Functions, and Delegations

The Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare has been amended to include an addition to the Statement of the Office for Civil Rights (39 FR 11325) 3/27/74, as follows:

Section 1D.10, the Statement of Organization is amended to include Directors, Office for Civil Rights (Regions I–X), showing that they are line organizations responsible directly to the Director, Office for Civil Rights.

Section 1D.20, the Statement of Functions is amended to include the functional Statement for Directors, Office for Civil Rights (Regions I–X).

The revised sections read as follows:

*Section 1D.10 Organization.* The Office for Civil Rights is under the supervision of the Director, Office for Civil Rights, who reports directly to the Secretary. He also serves as Special Assistant to the Secretary for Civil Rights. The Office for Civil Rights consists of:

Office of the Director:
- Director
- Deputy Director
- Office of Policy Communication
- Office of Public Affairs
- Office of Governmental Relations
- Assistant Director (Planning and Program Coordination)
- Assistant Director (Administration and Management)
- Contract Compliance Division
- Elementary and Secondary Education Division
- Higher Education Division
- Health and Social Services Division
- Directors, Office for Civil Rights (Regions I–X)

The statement for Directors, Office for Civil Rights (Regions I–X) will be numbered (12).

The added statement reads as follows:

(12) Directors, Office for Civil Rights (Regions I–X) are responsible for administering comprehensive programs for assuring compliance with Title VI of the Civil Rights Act of 1964, sections 799A and 845 of the Comprehensive Health Manpower and Nurse Training Acts of 1971, Titles VII and IX of the Education Amendments of 1972, Parts II and III of Executive Order 11246, as amended, and section 504 of the Rehabilitation Act of 1973. They provide leadership, decision making, and overall direction to their Regional Office staff in the accomplishment of research, technical assistance, negotiation (except when a case has been forwarded to Washington, D.C. with a recommendation to impose sanctions), evaluation of Affirmative Action Plans, resolution of complaints, compliance determinations, and advisory activities involved in securing voluntary cooperation. The Directors advise the Director, Office for Civil Rights, as to the adequacy and effectiveness of plans and policies for enforcing and promoting voluntary acceptance of the non-discrimination provisions of the above legislative authorities. Each Director establishes and maintains effective working relationships with State governments, school systems, hospitals and welfare organizations to promote understanding and acceptance of the legislative authorities and to keep informed of legislative proposals or community efforts which may impact on regional civil rights compliance and enforcement activities; and maintains liaison with other Federal agencies on civil rights matters of mutual interest as well as with regional HEW program officials.

Dated: September 16, 1974.

JOHN OTTINA,
*Assistant Secretary for Administration and Management.*

[FR Doc.74-21994 Filed 9-20-74;8:45 am]

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## OFFICE OF CONSUMER AFFAIRS

### Statement of Organization, Functions, and Delegations of Authority

Chapter 1A20 (38 FR 7135) of Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to reflect the reorganization of the Office of Consumer Affairs. The revised Chapter reads as follows:

*Section 1A20.00 Mission.* The Office of Consumer Affairs executes the functions assigned by Executive Orders 11583 and 11566, serves as principal advisor to the Secretary on consumer related policy and programs, and constitutes the staff of the Special Assistant to the President for Consumer Affairs.

*Section 1A20.10 Organization.* A. The Director of the Office of Consumer Affairs reports directly to the Secretary and directs and coordinates the activities of the Office of Consumer Affairs.

B. The Office of Consumer Affairs consists of the following components:

Office of the Director
Office of the General Counsel, OGA
Office of Public Affairs
Office of Program Development and Implementation
Office of External Liaison
Office of Administrative Management and Finance
Executive Secretariat
Economic Policy and Planning Staff

*Section 1A20.20 Functions. A. Office of Consumer Affairs.* (1) With respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and make recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and operations, and the elimination of duplication; (2) Assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest; (3) Conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies; (4) Submit recommendations to the President on how Federal programs and activities affecting consumers can be improved; (5) Take action with respect to consumer complaints; (6) Provide advice, assistance, and continuing policy guidance to the Consumer Product Information Coordinating Center and perform related responsibilities pertaining to consumer product information as set forth in Executive Order 11566; (7) Encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman; (8) Encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services, and consumer information; (9) Encourage, initiate, coordinate, evaluate and participate in consumer education programs and consumer counseling programs; (10) Encourage, cooperate with, and assist State and local governments in the promotion and protection of consumer interests; and (11) Cooperate with and encourage private enterprise in the promotion and protection of consumer interests.

*B. Office of the Director.* Directs and coordinates the activities of the Office of Consumer Affairs.

*C. Office of the General Counsel.* In coordination with the AS for Legislation, participates in the design and enactment of the President's consumer legislative program, to include preparation of Congressional testimony for the Special Assistant, and serves as Congressional liaison for the Special Assistant and the Office; prepares and reviews materials for presentation by the Director and Special Assistant to Departments and agencies; and in coordination with the De-

partmental General Counsel, provides all necessary legal services for the Office and the Special Assistant.

*D. Office of Public Affairs.* Is responsible for relations with the press and media; prepares speeches and articles and syndicated radio programs and a newspaper column, and publishes a newsletter for consumers.

*E. Office of Program Development and Implementation.* Monitors major Federal consumer related programs and activities with a view to evaluating their effectiveness, and develops information used to make appropriate policy and resource allocation decisions within the Office. Encourages private industry voluntarily to develop self-regulatory programs and adopt competitive policies and programs aimed at resolving common to large numbers of consumers, and maintains liaison with trade associations and industry as necessary to the functioning of the Office.

*F. Office of External Liaison.* Maintains liaison with state, county and city officials responsible for consumer education and protection, and with representatives of other nations, particularly within the framework of the Committee on Consumer Policy of the Organization for Economic Coordination and Development; serves as focal point in the Office of Consumer Affairs for liaison with national and state voluntary consumer organizations.

*G. Office of Administrative Management and Finance.* Recommends and applies administrative policy and procedures; is responsible for the activities of the Office of Consumer Affairs in the areas of annual budget, procurement, personnel and record keeping; and takes action with respect to consumer complaints and requests for information.

*H. Executive Secretariat.* Monitors staff replies to insure compliance with established office policies and facilitates timely, accurate and high quality correspondence.

*I. Economic Policy and Planning Staff.* Analyzes economic issues impacting on the consumer and provides economic data evaluation surveys to other OCA staff elements.

Date: September 11, 1974.

JOHN OTTINA,
*Assistant Secretary for Administration and Management.*

[FR Doc.74-21996 Filed 9-20-74;8:45 am]

## PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

### Meeting

The President's Council on Physical Fitness and Sports will hold its quarterly meeting on October 8-9, 1974. The meetings will be held from 9:30 a.m. to 4 p.m. on October 8; and from 9 a.m. to 4 p.m. on October 9 in Room 248, Old Executive Office Building, Washington, D.C.

The purpose of the meeting is to assess progress on the national program of physical fitness and sports and to determine future directions.

A list of the Council members and the Executive Order, dated September 25, 1974, establishing their responsibilities may be obtained from:

Mr. C. Carson Conrad
Executive Director
President's Council on Physical Fitness and Sports
Washington, D.C. 20201
Telephone: (202) 755-7947

The meeting will be open to the public.

Dated: September 18, 1974.

C. CARSON CONRAD,
*Executive Secretary, President's Council on Physical Fitness and Sports.*

[FR Doc.74-21995 Filed 9-20-74;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[FDAA-3003-EM; Docket No. NFD-231]

### ALASKA

### Notice of Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on September 14, 1974, the President declared an emergency as follows:

I have determined that the impact of the loss of power generating capability on the State of Alaska is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Alaska.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket D-74-285, I hereby appoint Mr. William H. Mayer, HUD Region X, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following area in the State of Alaska to have been adversely affected by this declared emergency:

The City of Kodiak and those environs of the City served by the Kodiak Electric Association, Inc.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: September 17, 1974.

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.74-22012 Filed 9-20-74;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### OLYMPIA AIRPORT

### Commissioning of Airport Traffic Control Tower

Notice is hereby given that on or about September 16, 1974, the Airport Traffic Control Tower at the Olympia Airport, Olympia, Washington, will be commissioned. It will improve the operational flow of terminal traffic consisting predominately of general aviation aircraft. Communications to the Airport Traffic Control Tower should be addressed as follows:

Airport Traffic Control Tower
Department of Transportation
Federal Aviation Administration
Olympia Airport
Route 13, Box 78
Olympia, Washington 98502

Issued in Seattle, Washington, on September 13, 1974.

J. H. TANNER,
*Acting Director, Northwest Region.*

[FR Doc.74-21945 Filed 9-20-74;8:45 am]

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### COMMITTEE ON CLAIMS ADJUDICATIONS

### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Claims Adjudications of the Administrative Conference of the United States, to be held at 10 a.m., September 28, 1974 in the offices of the Administrative Conference of the United States, Suite 500, 2120 L Street, NW., Washington, D.C., 20037.

The Committee will meet to consider the Case for Consolidation of the Boards of Contract Appeals and a study of Debarment of Government Contractors.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact William Francis Murphy, Staff Liaison, (phone 202-254-7038). Minutes of the meeting will be available on request.

RICHARD K. BERG,
*Executive Secretary.*

SEPTEMBER 12, 1974.

[FR Doc.74-22006 Filed 9-20-74;8:45 am]

## ATOMIC ENERGY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

#### Notice of Meeting

SEPTEMBER 17, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Regulatory Guides will hold a meeting on October 9, 1974 in Room 1046 at 1717 H Street NW., Washington, D.C. This meeting will have both open and closed sessions.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

*Wednesday, October 9, 1974, 9:30 a.m. until about 10:30 a.m.* The Subcommittee will hear presentations from the Regulatory Staff and will hold discussions with this group pertinent to its review of the June 1974 issue of Regulatory Guide 1.79, Preoperational Testing of Emergency Core Cooling Systems for Pressurized Water Reactors.

In connection with the above agenda item, the Subcommittee may hold one or more Executive Sessions, not open to the public, at approximately 8:30 a.m. and 10:30 a.m. on October 9 to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

After the above portion of the meeting is concluded, the Subcommittee will meet in closed session with the AEC Regulatory Staff and any consultants at about 10:45 a.m. until the close of business to discuss the following working papers:

(1) Seismic Response Combination of Modes and Spatial Components.

(2) Effects of Residual Elements on Predicted Radiation Damage.

(3) Protection of Nuclear Power Plant Control Room Operators Against an Accidental Chlorine Release.

(4) Evaluation of Explosions Postulated to Occur on Transportation Routes Near Nuclear Power Plant Sites.

This portion of the meeting may include Executive Sessions both before and after the closed session with the Regulatory Staff.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that other closed sessions will be held to discuss and exchange views on working papers which fall within exemption (5) of 5 U.S.C. 552(b). Further, any nonexempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or Subcommittee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting concerning Regulatory Guide 1.79, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding Regulatory Guide 1.79 may do so by mailing 25 copies thereof, postmarked no later than October 1, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statement concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 9:30 a.m. and 10:30 a.m. on October 9

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been canceled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 8, 1974, to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after October 10, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Streets, NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after January 9, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-21959 Filed 9-20-74;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON SEABROOK STATION, UNITS 1 & 2

#### Notice of Meeting

SEPTEMBER 17, 1974.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Seabrook Station, Units 1 & 2 will hold a meeting on October 9, 1974 in Room 1146 at 1717 H Street NW., Washington, D.C. The purpose of the meeting will be to develop information for consideration by the ACRS in its review of the application of the Public Service Company of New Hampshire for a permit to construct this nuclear power plant. The facility will be located in Rockingham County, New Hampshire. The plant site is approximately 8 miles southeast of Exeter, New Hampshire and 5 miles northeast of Amesbury, Massachusetts.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

*Wednesday, October 9, 1974—9:00 a.m. until the conclusion of business.* The Subcommittee will hear presentations by representatives of the Regulatory Staff and the Public Service Company of New Hampshire and will hold discussions with these groups pertinent to its review of the application of the Public Service Company of New Hampshire for a permit to construct the Seabrook Station, Units 1 & 2.

In connection with the above agenda item, the Subcommittee will hold Executive Sessions, not open to the public, at 8:30 a.m. and at the end of the day to consider matters relating to the above application. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

In addition to the Executive Sessions, the Subcommittee may hold closed sessions with representaitves of the Regulatory Staff and Applicant for the purpose

of discussing privileged information concerning plant physical security and other matters related to plant design, construction and operation, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain documents and information which are privileged and fall within exemption (4) of 5 U.S.C. 552(b). Further, any nonexempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Subcommittee operation, and to avoid public disclosure of proprietary information.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 2, 1974 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Preliminary Safety Analysis Report for this facility and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 10:00 a.m. and 12:00 noon on October 9, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 8, 1974 to the Office of the Executive Secretary of the Committee (telephone 301–973–5640) between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portion of the meeting will be available for inspection on or after October 10, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within approximately nine days at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202–547–6222) upon payment of appropriate charges.

(j) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after January 9, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-21958 Filed 9-20-74;8:45 am]

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## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON THE REACTOR SAFETY STUDY (WASH–1400)

### Notice of Meeting

SEPTEMBER 17, 1974.

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Working Group on the Reactor Safety Study (WASH–1400) will hold a meeting on October 9, 1974 in Room 1046, 1717 H Street, NW, Washington, D.C.

The purpose of this meeting will be to develop information for consideration by the ACRS in its review of the draft report on the "Reactor Safety Study (WASH–1400), An Assessment of Accident Risks in U.S. Commercial Nuclear Power Plants."

The following constitutes that portion of the Working Group's agenda for the above meeting which will be open to the public:

*Wednesday, October 9, 1974, 2:00 p.m. until the conclusion of business.* The Working Group will hear presentations by representatives of the AEC Regulatory Staff and will hold discussions with this group pertinent to its review of matters related to the draft report on the Reactor Safety Study (WASH–1400).

In connection with the above agenda item, the Working Group will hold Executive Sessions, not open to the public, at approximately 1:30 p.m. and at the end of the day to consider matters related to the above review. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of Working Group Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any nonexempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and avoid undue interference with agency or Working Group operation.

Practical considerations may dictate alteration in the above agenda or schedule.

The Chairman of the Working Group is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 2, 1974, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents on file and available for public inspection at the Atomic Energy Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the AEC's field information offices in Albuquerque; Chicago; King of Prussia, Pennsylvania; Idaho Falls, Idaho; Las Vegas, Nevada; Grand Junction, Colorado; Oak Ridge, Tennessee; Richland, Washington; San Francisco; Aiken, South Carolina; Atlanta, and Denver.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Working Group. To the extent that the time available for the meeting permits, the Working Group will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Working Group, between the hours of 3:00 p.m. and 5:00 p.m. on October 9, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Working Group who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 7, 1974 to the Office of the Executive Secretary of the Committee (telephone 301-973-5651) between 8:30 a.m. and 5:15 p.m. e.d.t.

(e) Questions may be propounded only by members of the Working Group and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after October 11, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within approximately nine days at various local public document rooms throughout the country. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202-547-6222) upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after January 9, 1975. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-21961 Filed 9-20-74;8:45 am]

## CONTROLLED THERMONUCLEAR RESEARCH SUBCOMMITTEE OF THE U.S. NUCLEAR DATA COMMITTEE

### Notice of Meeting

SEPTEMBER 17, 1974.

In accordance with the Atomic Energy Act of 1954, as amended, primarily sections 161a, 31, 32, and 33, the Controlled Thermonuclear Research Subcommittee of the U.S Nuclear Data Committee will hold a meeting on October 27, 1974, in the Franklin Room of the Sheraton-Park Hotel in Washington, D.C. The meeting will be open to the public. The agenda is as follows:

SUNDAY, OCTOBER 27, 1974

| | |
|---|---|
| 9 to 10:30 am | Administrative. |
| 10:30 to 12 am | Presentation of the Radiation Shielding Information Center (RSIC): Nuclear data services for the CTR community. |
| 1 to 2:30 pm | Presentation by Los Alamos Scientific Laboratory: Nuclear data assessment for CTR applications. |
| 2:30 to 3:30 pm | Nuclear data requests. |
| 3:30 to 4:30 pm | Open discussion. |
| 4:30 to 5:30 pm | Summary of conclusions; required actions and future plans and meetings. |

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than October 21, 1974, to the Chairman, CTR Subcommittee, USNDC (Dr. Don Steiner) Oak Ridge National Laboratory, P.O. Box Y, Oak Ridge, Tennessee 37830. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 9 and 11 a.m. on October 27, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 25, 1974, to the office of the Chairman of the Subcommittee (telephone: 615-483-8611, ext. 37995) between 9 a.m. and 4 p.m. eastern time.

(e) Questions may be asked only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after January 27, 1975, at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.74-21960 Filed 9-20-74;8:45 am]

[Dockets Nos. 50-400, 50-401, 50-402, 50-403]

## CAROLINA POWER AND LIGHT CO.

### Supplemental Notice of Hearing

In the matter of The Carolina Power & Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4).

Please take notice that the evidentiary hearing in this matter will commence at 9:30 a.m. e.d.t. October 8, 1974 at the following location:

Chamber Room
Holiday Inn Downtown
320 Hillsborough Street
Raleigh, North Carolina 27603

This public evidentiary hearing before an Atomic Safety and Licensing Board will be conducted pursuant to the Atomic Energy Act of 1954, as amended, and the Atomic Energy Commission's Rules of Practice (10 CFR Part 2), and will concern the application of the Carolina Power & Light Company (the Applicant) for AEC construction permits to build four pressurized water nuclear reactors on the Applicant's 18,000-acre site about 20 miles southwest of Raleigh, North Carolina, in Wake and Chatham Counties. The proposed facility would be known as the Shearon Harris Nuclear Power Plant. Each of the four nuclear units will be designed for an initial power output of 2,785 megawatts thermal, with an equivalent net electrical output of about 900 megawatts electrical.

This hearing had been scheduled earlier but postponed by prior notices of the Board. The hearing will concern the ra-

diological health and safety matters set forth in the Commission's September 21, 1972 Notice of Hearing (published in the FEDERAL REGISTER on September 29, 1972 at 37 FR 20,344), as well as the specific contentions and matters in controversy admitted by prior orders of the Board.

Persons who have filed requests to make limited appearance statements pursuant to the Commission's rules of practice (10 CFR § 2.715(a)) will be heard on the first day of the hearing. All interested members of the public are invited to attend the hearing.

*It is so ordered.*

Issued at Bethesda, Maryland this 17th day of September, 1974.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY,
*Chairman.*

[FR Doc.74-21955 Filed 9-20-74;8:45 am]

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[Dockets Nos. 50-416, 50-417]

## MISSISSIPPI POWER & LIGHT CO. (GRAND GULF NUCLEAR STATION, UNITS 1 & 2)

### Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for these proceedings to consist of the following members:

Dated: September 17, 1974.

Alan S. Rosenthal, Chairman
Richard S. Salzman, Member
Dr. Lawrence R. Quarles, Member

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.74-21957 Filed 9-20-74;8:45 am]

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[Docket No. 50-220]

## NIAGARA MOHAWK POWER CORP.

### Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-17 issued to Niagara Mohawk Power Corporation which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station Unit 1. The amendment is effective as of its date of issuance.

The amendment permits minor changes in the Administrative staff of the organization to allow for better distribution of the supervisory workload.

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.

For further details with respect to this action, see (1) the application for amendment dated June 17, 1974, (2) Amendment No. 5 to License No. DPR-17, with any attachments, 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, N.W., Washington, D.C. and at the Oswego City Library at 120 East Second Street, Oswego, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 13th day of September, 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
*Chief, Operating Reactors Branch #3, Directorate of Licensing.*

[FR Doc.74-21962 Filed 9-20-74;8:45 am]

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[Docket No. 50-423]

## NORTHEAST NUCLEAR ENERGY CO.

### Reconstitution of Atomic Safety and Licensing Appeal Board

Northeast Nuclear Energy Company (formerly the Millstone Point Company, et al.) (The Millstone Nuclear Power Station, Unit No. 3).

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. Lawrence R. Quarles, Member
Richard S. Salzman, Member

Dated: September 17, 1974.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.74-21956 Filed 9-20-74;8:45 am]

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[Docket No. 50-282]

## NORTHERN STATES POWER CO.

### Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. DPR-42, issued to Northern States Power Company, which revised the license for operation of the Prairie Island Nuclear Generating Plant, Unit 1 (the facility), located in Goodhue County, Minnesota. The amendment is effective as of its date of issuance.

The amendment revises Appendix A to the Technical Specifications increasing the limiting temperature difference between containment air and shield building air during plant operation.

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.

For further details with respect to this action, see (1) the application for amendment dated April 25, 1974, (2) Amendment No. 4 to License No. DPR-42, with any attachments, 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 Environmental Library of Minnesota, 1222 SE. 4th Street, Minneapolis, Minnesota 55414.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Maryland, this 16th day of September 1974.

For the Atomic Energy Commission.

KARL KNIEL,
*Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.*

[FR Doc.74-21963 Filed 9-20-74;8:45 am]

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# CIVIL AERONAUTICS BOARD

[Docket No. 26603, Order 74-9-59]

## AIRLIFT INTERNATIONAL, INC. AND PAN AMERICAN WORLD AIRWAYS, INC.

### Order of Suspension Regarding Puerto Rico/Virgin Islands Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of September 1974.

By tariff revisions filed August 21 and marked to become effective September 20, 1974, Airlift International, Inc., (Airlift) and Pan American World Airways, Inc., (Pan American) propose to increase their local and joint general commodity bulk rates between points in the U.S. and San Juan by 8 and 9 percent, respectively.

In support of its proposal Pan American states, *inter alia*, that (1) fuel costs have increased 70 percent in these markets with fuel expenses now representing 13.87 percent of total operating expenses; (2) to offset these increased fuel prices would require a revenue increase of 9.4 percent; and (3) the proposed rate increase is less than that required to offset these fuel price increases.

Airlift contends that proposed rate increases are necessary to help offset rising operating costs and keep it competitive in these markets.

All of the proposed rates and charges come within the scope of Docket 26603, the investigation of *Puerto Rico/Virgin Islands Freight Rates*. The issue now before the Board is whether to suspend the

proposals or to permit them to become effective pending final decision in that investigation.

The Board has reviewed the instant proposals in the light of industry average costs of carrying air freight (including a full return on investment) [1] and reflecting recent fuel price increases and finds that a number of the proposed rates are higher than costs and should be suspended. The remainder of the proposals, where rates are equal to or below costs, do not appear excessive and should be permitted to become effective.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

*It is ordered*, That:

1. Pending hearing and decision by the Board, the rates and charges described in Appendix A hereto [2] are suspended and their use deferred to and including December 18, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

2. Copies of this order shall be filed with the tariffs and served upon Airlift International, Inc., and Pan American World Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.74-22010 Filed 9-20-74;8:45 am]

[Docket No. 26530]

## FRONTIER AIRLINES, INC.—DELETION APPLICATION-COLUMBUS, NEBRASKA

### Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on October 15, 1974, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before September 27, 1974, and the other parties on or before October 8, 1974. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

[1] See Order 74-7-120 for explanation of cost-based rates.

[2] Attachment filed as part of the original document.

Dated at Washington, D.C., September 17, 1974.

[SEAL] ROBERT L. PARK,
*Chief Administrative Law Judge.*

[FR Doc.74-22011 Filed 9-20-74;8:45 am]

[Docket Nos. 24752, 24753; Order No. 74-9-54]

## UNITED AIR LINES, INC.

### Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of September 1974.

On September 13, 1972, United Air Lines, Inc. (United) concurrently filed applications requesting: (1) Amendment of its certificate of public convenience and necessity for route 1 by modifying segment 7 thereof to redesignate the intermediate points Visalia and Fresno as the hyphenated intermediate point Fresno-Visalia (Docket 24752); and (2) a temporary exemption from the provisions of Title IV of the Act which would otherwise prohibit United from providing service to Visalia through Fresno pending the Board's final determination with respect to the hyphenation application (Docket 24753). United further requested that the hyphenation application be handled by the issuance of a show cause order.[1]

In support of its applications, United alleges, *inter alia*, that: since March, 1968, United has continuously served Visalia with one daily round trip; Visalia traffic volumes are not sufficient to support direct service; during the first six months of 1972, average daily passenger enplanements dropped from the 1971 level of 12 per departure to 9 per departure; the number of passengers per day utilizing connecting service on United's system to points beyond San Francisco and Los Angeles is insignificant; operating present schedules, United forecasts, on an incremental cost basis, a negative contribution to profit of $360,704 in calendar 1972; United can provide adequate service to Visalia through Fresno; Fresno Air Terminal is only 46 miles and 45-50 minutes from Visalia; the California Public Utilities Commission has granted Swift Aire Lines, Inc. (Swift) authority to serve, *inter alia*, the Visalia-Fresno and Visalia-Los Angeles markets; Swift operates four-engine 17-seat DH-14 De Havilland Heron aircraft; and United seeks to hyphenate Visalia with Fresno rather than delete Visalia so that it will have the flexibility of serving Visalia through either Fresno or Visalia, depending upon the conditions in the overall market.

On September 22, 1973, the City of Visalia filed a petition for leave to intervene in Dockets 24752 and 24753, accompanied by a City Council resolution opposing United's applications.

[1] United's application has twice been amended by the filing of supplements on April 23 and December 11, 1973.

Upon consideration of pleadings and all the relevant facts, we have tentatively decided to dismiss United's applications for hyphenation and temporary exemption and to authorize United to temporarily suspend service at Visalia for a period of seven years subject to the following conditions: (1) That the suspension terminate seven days after Swift (or an acceptable Part 298 carrier) ceases or fails to provide daily scheduled commuter service between Visalia and Los Angeles and between Visalia and San Francisco on a regular basis; (2) that United, as an indication of its ability to reactivate service, be required to file with the Board an executed contract with either Swift, another commuter air carrier, or an aircraft lessor which provides that, in the event Swift ceases operations at Visalia, service between Visalia and Los Angeles and between Visalia and San Francisco shall begin within seven days and shall continue without interruption until United resumes service with its own aircraft or until an acceptable Part 298 operator provides replacement services at Visalia; (3) United be required to obtain specific Board approval before resuming service during the period in which Swift (or an acceptable Part 298 carrier) provides daily commuter service; and (4) that joint fares be established for the replacement services.

We tentatively find and conclude that a temporary suspension, subject to the provision of the replacement service described above, is in the public interest.[2] In 1971, the calendar year preceding the filing of the instant application, Visalia generated 23.3 enplaned passengers per day. Although the traffic fell off slightly in 1972 and 1973,[3] Visalia generated 23.0 enplaned passengers per day during the first half of 1974. On the other hand, in light of its close proximity to Fresno, it is clear that Visalia is not isolated. Moreover, the nature of the Visalia traffic continues to be short-haul and low-density so that United would gain financially if it were authorized to stop serving Visalia.

In light of the foregoing, we have tentatively concluded that the most reasonable course of action is to temporarily suspend United at Visalia subject to the requirement that replacement air taxi services be provided. The suspension will benefit United financially and the replacement services will be more closely geared to the needs of the Visalia community than that which can be provided by United.[4] Moreover, the community will retain the assurance of remaining a certificated point and, should commuter service cease, United will be obliged to re-

[2] We further tentatively conclude that this action will not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969. The elimination of United's two daily takeoffs and landings with large aircraft at Visalia will be sufficient to offset the resulting increase in the level of air taxi operations.

[3] In 1972, Visalia generated 19.0 enplaned passengers per day, and 20.2 in 1973.

sume service within seven days in the absence of an available and satisfactory Part 298 carrier.[5]

We conclude that Swift's record and experience render it qualified to provide the proposed replacement service.[6] We are also satisfied that there are no safety considerations which would warrant a determination that a replacement arrangement will not be in the public interest. Swift is a Part 298 operator and, as such, has been issued an Air Taxi/Commercial Operator's Certificate by the Federal Aviation Administration (FAA), having demonstrated its competence and ability to comply with all applicable safety regulations. The Secretary of Transportation, through the FAA, is charged by law with insuring the highest degree of safety in air transportation and, to this end, the operations of Swift are monitored by the FAA in accordance with the strictures set forth in the Federal Aviation Act of 1958, as amended, and the safety regulations promulgated thereunder. In this connection, we have been verbally notified by the FAA that Swift's operations have been conducted in accordance with all applicable safety regulations, and that NTSB and FAA records indicate that the carrier has met all the necessary requirements as to safety and reliability.[7]

Further, consistent with our practice in similar cases, we view the inclusion of joint fares and rates to be required in the public interest [8] and, accordingly, we tentatively conclude that the approval of the suspension should be conditioned upon the maintenance of joint passenger fares and cargo rates at levels equal to the through, single-factor, Visalia fares United currently charges for travel between Visalia, on the one hand, and other cities on United's system, on the other hand. In addition, Phase 4 of the *Domestic Passenger-Fare Investigation* (Docket 21866) requires that joint fares be provided in all markets over all routings. Therefore, in order to effectuate the intent of the Board, we tentatively conclude that United should be required to maintain in effect, for the Visalia service provided by Swift, all joint-fare tariffs now in effect or hereafter required to be filed by the Board in Phase 4 of the *DPFI*.[9]

In order that Swift may be able to operate and develop its services free from competition by United, we tentatively conclude that the suspension should be granted for a period of seven years subject to the requirement that United seek Board approval before it resumes service at Visalia during the period in which commuter service is provided. Furthermore, since we believe that suspension, as conditioned herein, will serve the needs of both the community and United, we will not hear United's application to hyphenate Visalia nor its application for a temporary exemption permitting United to serve Visalia through Fresno. Accordingly, in light of the Board's general policy with respect to applications not likely to be designated for hearing before they become stale, we have tentatively concluded that these applications should be dismissed without prejudice. *Cf.:* Rule 911(b-1) of the Board's Rules of Practice.

Although there is presently no replacement agreement between the carriers, we have examined the facts and our findings in light of *Air Line Pilots Association* v. *C.A.B.*, C.A.D.C. Nos. 73-1068, *et al.*, decided March 20, 1974, involving air taxis replacement services. We find that it would be inappropriate and not in the public interest to require Swift to undergo a certification proceeding in order to provide replacement services for United at Visalia. Swift commenced service as a scheduled commuter air carrier in 1969. In 1973, the carrier served 49,195 passengers in 16 markets, which traffic produced 8 million RPM's. This level of RPM's amounted to only .64 percent of the average RPM's for each certificated local service carrier in 1973. On the basis of these facts and the basis of our findings as set forth in Order 72-9-39, September 12, 1972, and Order 73-1-3, January 2, 1973, we conclude that the certification process is inappropriate for Swift.

We further conclude that certification would be an undue burden on Swift by reason of the limited extent of, and unusual circumstances affecting its operations. As described above, the carrier's operations are of limited extent in terms of both the proposed replacement services involved and the overall scope of its operations. Furthermore, the nature of the small aircraft which a commuter carrier utilizes tends to restrict the scope of its operations. The accommodations on these aircraft not only limit the competitive capabilities of Swift, but also the amount of traffic it can carry and the length of markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certification procedures would impose a severe financial burden on Swift wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden because certification would deprive Swift of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. United should be authorized to suspend service temporarily at Visalia, California, for a period of seven years, subject to the conditions that: (a) Such suspension shall terminate seven days after Swift Aire Lines, Inc. (or an acceptable Part 298 carrier) ceases or fails to provide daily scheduled commuter service between Visalia and and Los Angeles, and between Visalia and San Francisco, on a regular basis [10]; (b) United shall maintain in effect for the Visalia service operated by Swift all joint-fare traiffs now in effect or hereafter required to be filed by the Board in the *Domestic Passenger-Fare Investigation*, Docket 21866; (c) United and Swift shall maintain, as long as the suspension is in effect, joint passenger fares and cargo rates at levels equal to the through single-factor Visalia fares and rates United could charge for travel between Visalia, on the one hand, and other points on United's system, on the other hand, if it were providing service at Visalia with its own aircraft [11]; (d) United shall not itself resume service without explicit Board approval during the period in which Swift (or an acceptable Part 298 carrier) is providing daily scheduled commuter service at Visalia; and (e) United shall file with the Board an executed contract with either Swift, another commuter air carrier, or an aircraft lessor which provides that, in the event Swift ceases operations at Visalia, service between Visalia and Los Angeles and between Visalia and San Francisco shall begin within seven days and shall continue without interruption until United resumes service with its own aircraft or

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[4] Although we have not conditioned suspension upon the establishment of a fixed level of commuter replacement service (see Order 73-8-67, August 13, 1973) we intend to monitor this service to insure that Visalia receives regular air service to San Francisco and Los Angeles at a level commensurate with its needs. Specifically, we shall retain jurisdiction over this proceeding so as to be able to modify our decision (with or without hearing) if such modification is required by the public interest, and we shall require United to notify the Board should Swift's service cease and to specify what other commuter service will be available at Visalia if the carrier itself does not resume service at the point. At that time, we will evaluate the new commuter service and determine whether the operator is an acceptable replacement carrier.

[5] United's suspension will be conditioned so as to insure that United will be able to reactivate service within seven days in the event that Swift ceases to provide daily scheduled commuter service to Los Angeles and San Francisco.

[6] Swift commenced service as a scheduled commuter air carrier in 1969, and has steadily expanded. In 1973, Swift served eight cities: Fresno, Los Angeles, Paso Robles, Sacramento, San Francisco, San Jose, San Luis Obispo, and Santa Maria. Swift is currently providing one Los Angeles-Bakersfield-Visalia-Fresno-Sacramento round trip five days a week plus an additional San Luis Obispo-Los Angeles-Bakersfield-Visalia-Sacramento flight five days per week.

[7] This verbal notification will be confirmed by letter. Copies of the FAA's letter, as well as the FAA's safety and compliance evaluation of Swift, will be placed in this docket as soon as they are received.

[8] See, *e.g.*, Order 74-4-119, April 23, 1974.

[9] We will expect United to file such tariff revisions as are necessary to effectuate this requirement.

[10] Should Swift cease to provide regularly scheduled commuter service, United shall notify the Board within seven days what alternative replacement service it intends to rely upon for a continued suspension if the carrier does not itself resume service at the point.

until an acceptable Part 298 operator provides replacement services at Visalia.

2. United's applications requesting hyphenation of the Visalia with Fresno, the processing of that application by show cause procedures, and a temporary exemption authorizing United to serve Visalia through Fresno should be dismissed.

Interested persons will be given thirty days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary, and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

*Accordingly, it is ordered*, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, granting United a temporary suspension at Visalia, subject to the terms and conditions specified above, and dismissing United's applications and petition in Dockets 24752 and 24753;

2. Any interested person having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall, within thirty days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections, together with such statistical data and other materials in evidence relied upon to support the stated objections; answers to such objections shall be filed within fourteen days thereafter;

3. Any interested person requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon all persons listed in Appendix A attached hereto.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

APPENDIX

SERVICE LIST

Honorable Ronald Reagan
Governor of California
Sacramento, California 95814

California Aeronautics Department
Sacramento Municipal Airport
Sacramento, California 95882

Mr. William R. Johnson
Secretary, Public Utilities Commission
State of California
350 McAllister Street
San Francisco, California 94102

Office of the Mayor
Visalia, California 93277

Airport Manager
Visalia Municipal Airport
Visalia, California 93277

United Air Lines, Inc.
P.O. Box 66100
Chicago, Illinois 60666

Swift Aire Lines, Inc.
Terminal Building
San Luis Obispo County Airport
P.O. Box 1381
San Luis Obispo, California 93401

Hughes Airwest, Inc.
San Francisco International Airport
San Francisco, California 94128

The Postmaster General
Attention: Assistant Postmaster General
Bureau of Transportation
Post Office Department
Washington, D.C. 20260

[FR Doc.74-22009 Filed 9-20-74;8:45 am]

[11] United and Swift shall publish, on not less than ten days notice, tariffs containing the rates and fares required herein to be effective 45 days after the date of service of the Board's order finalizing this order.

## COMMISSION ON CIVIL RIGHTS

### MASSACHUSETTS STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts State Advisory Committee (SAC) to this Commission will convene at 12 Noon on October 16, 1974, at the Jewish Labor Committee, 27 School Street, Boston, Massachusetts 02108.

Persons wishing to attend this meeting should contact the Committee Chairman or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss health care available to the Spanish Speaking in Massachusetts.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 16, 1974.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.74-21983 Filed 9-20-74;8:45 am]

## CIVIL SERVICE COMMISSSION

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Title Change in Noncareer Executive Assignment

By notice of November 30, 1972, FR Doc. 72-20576, the Civil Service Commission authorized the Department of Housing and Urban Development to make a change in title for the position of Executive Assistant, Office of the Assistant Secretary-Commissioner, Housing Production and Mortgage Credit, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Executive Assistant Commissioner, Office of the Assistant Secretary for Housing Production and Mortgage Credit/Federal Housing Administration Commissioner.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.74-21998 Filed 9-20-74;8:45 am]

### DEPARTMENT OF THE TREASURY

#### Title Change in Noncareer Executive Assignment

By notice of February 21, 1974, FR Doc. 74-4101 the Civil Service Commission authorized the Department of the Treasury to make a title change in the title for the position of Special Assistant to the Deputy Under Secretary, Office of the Deputy Under Secretary, Office of the Secretary, authorized to be filled by noncareer executive agency. This is notice that the title of this position is now being changed to Deputy Assistant Secretary (Legislative Affairs), Office of the Assistant Secretary (Legislative Affairs), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.74-21997 Filed 9-20-74;8:45 am]

## COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING

### NOTICE OF MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Commission on the Review of the National Policy Toward Gambling, established under the authority of section Pub. L. 91-452, Part D, section 804-808 of the Organized Crime Control Act of 1970, will meet on October 8, 1974, in Room 301 of the Russell Senate Office Building, Washington, D.C., at 1:30 p.m.

The purpose of the meeting is to discuss the expenditures of Fiscal Year 1974, to approve the proposed Fiscal Year 1975 expenditures and to discuss and approve

the Fiscal Year 1976 budget requested by the Office of Management and Budget, and the activities of the Commission prior to January 1975. The Commission will also consider whether it is appropriate to make an expedited recommendation to Congress regarding state operated lotteries.

The meeting of the Commission will be open to the public, and interested persons are invited to attend. The rules of procedure for person or persons presenting matters to the Commission are subject to the following conditions:

(a) Any such interested person or persons must receive authorization to present such matters from the Chairman of the Commission. Not later than seven (7) days preceding such Executive or Public Hearings, a request for such authorization must be received in writing at the offices of the Commission. Such a request shall be accompanied by a concise description of the material which such person or persons desire to present to the Commission or Subcommittee.

(b) The Chairman of the Commission shall, within three (3) days from the receipt of such a request make a determination that the subject matter presented by such interested person or persons is timely and appropriate for such Executive or Public Hearings of the Commission or Subcommittee thereof, and shall notify such interested persons or person by Certified Mail of the decision.

(c) In the event such interested person or persons is allowed to present matters to the Commission or Subcommittee thereof in Executive or Public Hearings, then a prepared written statement of expected presentation shall be filed in the office of the Commission, not later than 48 hours in advance of the hearings of which the statement is to be presented.

(d) After the receipt of the statement of expected presentation, the Chairman shall then make a determination of the extent that time is available for such interested person or persons to present oral statements in addition thereto. In the event that the Chairman determines that time is not available for such oral statements, the interested person or persons' statement shall be recorded and made a part of the subject proceedings.

(e) Provided further that any such interested person or persons who feel aggrieved by or takes exception to any of the determinations made by the Chairman of the Commission shall have the opportunity to present in writing to each member of the Commission the basis for such grievance or exception taken to such ruling by the Chairman and thereafter the decision of the Chairman shall be reconsidered by each member of the Commission at its next regular meeting or hearing. Notice by Certified Mail to such interested person or persons shall include the final decision of the full Commission on its reconsideration and shall constitute notification of the action taken by the Commission.

(f) Any deviation from the preceding requirements, shall constitute on the part of such interested person or persons, a withdrawal of any request previously made.

JAMES E. RITCHIE,
*Executive Director.*

[FR Doc. 74-22008 Filed 9-20-74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 266-7]

### AMCHEM PRODUCTS, INC.

#### Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (40 CFR 180.8), Amchem Products, Inc., Ambler, PA 19002, has withdrawn its petition (PP 2F1213), notice of which was published in the FEDERAL REGISTER of January 11, 1972, proposing establishment of tolerances for residues of the herbicide 2,3,6-trichlorophenylacetic acid in fish and water at 1 part per million.

Dated: September 6, 1974.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

[FR Doc.74-22056 Filed 9-20-74;8:45 am]

[FRL 267-3]

### CIBA-GEIGY, CORP.

#### Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 5F1538) has been filed by CIBA-GEIGY Corp., P.O. Box 11422, Greensboro, NC 27409, proposing establishment of a tolerance (40 CFR Part 180) for negligible residues of the herbicide profluralin (*N*-(cyclopropylmethyl)-α,α,α-trifluoro-2,6-dinitro-*N*-propyl-*p*-toluidine) in or on the raw agricultural commodities alfalfa forage and hay at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure with electron-capture detection.

Dated: September 6, 1974.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

[FR Doc.74-22058 Filed 9-20-74;8:45 am]

[FRL 267-4]

### CIBA-GEIGY CORP.

#### Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (5F1539) has been filed by CIBA-GEIGY Corp., P.O. Box 11422, Greensboro, NC 27409, proposing establishment of tolerances (40 CFR Part 180) for residues of the herbicide procyazine (2-[[4-chloro-6-(cyclopropylamino)-1,3,5-triazin-2-yl] amino]-2-methylpropanenitrile) and its hydroxy metabolites, *N*-[4-(cyclopropylamino)-6-hydroxy-1,3,5-triazin-2-yl]-2-methylalanine, *N*-(4-amino-6-hydroxy-1,3,5-triazin-2-yl)-2-methylalanine, and *N*-(4,6-dihydroxy-1,3,5-triazin-2-yl)-2-methylalanine (calculated as procyazine) in or on the raw agricultural commodities corn fodder and forage at 2 parts per million; fresh corn including sweet corn (kernels plus cob with husk removed) and corn grain at 0.2 part per million (negligible residue); and eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the parent compound procyazine is a gas chromatographic procedure using a Dohrmann chloride specific microcoulometric detector. The analytical method proposed for determining residues of the hydroxy metabolites involves a degradation reaction to form 5,5-dimethylhydantoin (DMH) which is derivatized to form trichloromethyl sulfide (TCMS-DMH). The latter compound is determined by gas chromatography using an electron capture detector.

Dated: September 6, 1974.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

[FR Doc.74-22059 Filed 9-20-74;8:45 am]

[FRL 266-5]

### EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

#### Notice of Meeting

Notice is hereby given of a meeting of the Effluent Standards and Water Quality Information Advisory Committee (ES&WQIAC), established under section 515 of the Federal Water Pollution Control Act ("The Act") 33 U.S.C. 1374, P.L. 92-500, to be held in Room 821, Building No. 2, Crystal Mall, Arlington, Virginia, Thursday, October 31, 1974, 9 a.m.-5 p.m.

This meeting is one of a series of special monthly meetings of ES&WQIAC conducted for the purpose of reviewing and preparing comments on technical documents supporting the development of effluent limitations.

The meeting will be open to the public and under the overall direction of the Committee Chairman. Any member of the public wishing to attend the meeting should contact Dr. Martha Sager, Chairman, ES&WQIAC, Room 821, CM No. 2, Washington, D.C. 20460, Tel: (703-557-7390).

MARTHA SAGER,
*Chairman, Effluent Standards and Water Quality Information Advisory Committee.*

SEPTEMBER 18, 1974.

[FR Doc.74-22054 Filed 9-20-74;8:45 am]

[FRL 266-8]

## MONSANTO CO.

### Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512, 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 5F1536) has been filed by Monsanto Co., 800 N. Lindbergh Boulevard, St. Louis, MO 63166, proposing establishment of tolerances (40 CFR Part 180) for combined negligible residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on forage grasses and soybean forage and hay at 0.2 part per million and grain crops and soybeans at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide and its metabolite is a procedure in which the residues are derivatized to form the corresponding *N*-trifluoroacetyl methyl esters. The derivative is then determined by a gas chromatographic procedure with a flame photometric detector for phosphorus.

Dated: September 6, 1974.

JOHN B. RITCH, Jr.,
*Director,*
*Registration Division.*

[FR Doc.74-22057 Filed 9-20-74;8:45 am]

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[FRL 256-8]

## PLUTONIUM AND THE TRANSURANIUM ELEMENTS

### Contamination Limits; Intent To Review the Need for Establishing New Rules

The President's Reorganization Plan No. 3 of 1970, which became effective on December 2, 1970, transferred certain functions from the Atomic Energy Commission to the Environmental Protection Agency " * * * to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material."

This Reorganization Plan also transferred to the EPA all the functions of the Federal Radiation Council, as specified in the Atomic Energy Act. Section 274(h) provides that "the Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States."

Notice is hereby given that the U.S. Environmental Protection Agency intends to evaluate the environmental impact of transuranium elements and to consider whether guidelines or standards under these authorities are needed to assure adequate protection of the general ambient environment and of the public health from potential contamination of the environment by radionuclides of the transuranium elements.

The transuranium elements include plutonium and the higher atomic number elements. Many of these nuclides are characterized by long radioactive half-lives and high radiotoxicity. Because of these properties, releases of the transuranium elements may result in environmental buildup of these nuclides to the point that the general public could be exposed to significant cumulative radiation doses. Any release of these radionuclides constitutes an irreversible commitment to the environment and may entail a potential health hazard for both current and future generations.

The transuranium nuclides are man-made and produced primarily in nuclear reactors. When the spent reactor fuel is reprocessed, only the transuranium elements neptunium and plutonium are presently recovered. Relatively small amounts of the transuranium elements are now in commerce but, because of the rapid growth of the nuclear power industry, increasingly large quantities of these nuclides are expected to be produced and processed in controlled facilities in the future. In the past, the largest use of these elements has been in nuclear weapons. Future use is expected to be primarily as fuel for nuclear power reactors, both in light-water moderated reactors and especially in the breeder reactors. Application of transuranium elements in diverse other areas, such as thermal power sources for space, medical, and other applications is only now beginning but may increase rapidly over the next few decades. Small releases of the transuranium elements to the environment are possible at most locations where these elements are handled. In addition, despite stringent design criteria and quality assurance programs, larger single releases may occur as the result of low probability accidents or other unforeseen circumstances. Current environmental levels consist of (1) a general background level of plutonium resulting from widespread fallout from atmospheric tests of nuclear explosive devices and from atmospheric burnup of one reentering space power source, and (2) more localized residual contamination from weapons accidents, and from releases from nuclear materials production, fabrication, and utilization facilities. The plutonium present in the environment from sources other than fallout is only a small fraction of the total amount, and projections indicate that fallout will continue as the most significant contributor for at least the next few decades. However, near a plutonium handling facility, cumulative small releases could lead to localized environmental buildup considerably higher than that resulting from fallout alone.

Once the transuranium elements are in the environment the major long-term pathway of exposure of the population has been assumed to be by primary deposition and by air resuspension, i.e., particles which have been deposited on the surface are picked up by wind or other disturbance and inhaled. Primary exposure would be to the lungs and lymph nodes for insoluble plutonium, and additionally also to the bone and liver for soluble plutonium. Over the potentially very long periods of time of persistence of some of these radionuclides, their distribution in the ecosystem may change and it is possible that they may eventually predominantly enter man through the food chain. Information presently available on environmental transport processes of the transuranium elements is sufficient to allow only an approximate assessment of exposures through these pathways. Therefore, increased research is needed to better define these pathways and to accurately determine transfer parameters needed for dose assessment.

For purposes of standard setting, the health hazard from a radiation dose has generally been assessed by using a linear nonthreshhold dose-effect relationship. While there is no scientific information to definitely confirm this hypothesis, in light of current uncertainties this should be considered as a prudent and probably conservative assumption. Using this approach, it is assumed that every dose received, no matter how small, carries with it some risk of an adverse health effect. A substantial body of information already exists on the long-term effects of exposure to various types of radiation. Considerable additional work is in progress on the specific bioeffects associated with continued exposure to the transuranium elements. Current radiation standards need to be reviewed in terms of their adequacy in providing sufficient protection to both the environment and the public health, and decisions made as to whether new standards may be required to limit releases to the general environment.

Therefore, to insure adequate protection of the general public and the environment from the effects of environmental releases of the transuranium elements, it is the intent of the Environmental Protection Agency to consider the need to establish generally applicable environmental standards for the transuranium elements. Although present practice attempts to minimize the release of these elements reaching the environment, it is recognized that some minor releases are inevitable during normal operations involving the transuranium nuclides. This Agency desires information required to assess the expected magnitude of such releases, the costs of averting these, possible alternative actions, the potential environmental and public health impact as they relate to standards development, and other pertinent topics. This Agency also desires to evaluate the adequacy of the current guidelines for emergency action and the criteria for cleanup of the environment after an accident or other contaminating event has occurred. All information received will be evaluated for its adequacy, relevance, and technical acceptability.

Consideration will be given to holding of technical symposia and public hearings for the purpose of obtaining technical data and opinions from interested parties. The dates and locations of such symposia and hearings, if deemed necessary, will be published at a later date. Adequate advance notice will be provided for the preparation of technical reviews and testimony.

Comments and other contributions are desired and should be addressed to the Criteria and Standards Division, Office of Radiation Programs (AW-560), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

JOHN QUARLES,
*Acting Administrator.*

SEPTEMBER 17, 1974.

[FR Doc.74-22053 Filed 9-20-74;8:45 am]

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[FRL 266-6]

## ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

### Availability of EPA Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of August 16, 1974 and August 31, 1974.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: September 16, 1974.

SHELDON MEYERS,
*Director, Office of Federal Activities.*

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Aug. 16, 1974 and Aug. 31, 1974*

| Identifying No. | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| Department of Agriculture: | | | |
| D-AFS-A65104-CA | Proposed Shasta-Trinity National Forest timber management plan, California. | ER-2 | J |
| D-AFS-E61001-KY | Management of Beaver Creek unit in Daniel Boone National Forest, McCreary and Pulaski Counties, Ky. | LO-1 | E |
| D-AFS-E61002-NC | 10-year management of Cullasaja River unit, and Whitewater River unit in Nantahala National Forest, Transylvania, Jackson, Macon Counties, N.C. | LO-1 | E |
| D-AFS-J65001-WY | Moccasin Basin and Calf Creek, Papoose Creek timber sales, Wyoming. | ER-2 | I |
| D-SCS-A36419-SC | Rabon Creek watershed project and work plan, Greenville and Laurens Counties, S.C. | ER-2 | E |
| Atomic Energy Commission: | | | |
| D-AEC-A06136-WY | Utah International, Inc., Shirley Basin Uranium Mill, Shirley Basin, Wyo. | 3 | A |
| D-AEC-A06138-MA | Pilgrim Nuclear Power Station, units 2 and 3, Boston Edison Co., docket No. 50-471 and 50-472, Plymouth, Mass. | ER-2 | A |
| Corps of Engineers: | | | |
| DS-COE-A32426-00 | Operation and maintenance of existing navigation channel at mouth of East Pearl River, Louisiana and Mississippi. | LO-2 | G |
| D-COE-A34130-TX | Big Pine Lake, Big Pine Creek, Tex | LO-2 | G |
| D-COE-A35147-IL | Operation and maintenance of lake, Shelbyville, Ill | LO-2 | F |
| DS-COE-IA36170-GU | Namo River, flood control project, Guam | ER-2 | J |
| D-COE-A32512-TX | Maintenance and dredging, Matagorda ship channel, Texas. | ER-1 | G |
| D-COE-A36420-00 | Tombigbee River and tributaries, Luxapallia Creek segment, flood control, Alabama and Mississippi. | ER-2 | E |
| D-COE-D30001-VA | Virginia Beach erosion control project, Virginia Beach, Va. | ER-2 | D |
| D-COE-D30002-VA | Beach erosion control, Westmoreland State Park, Va | LO-2 | D |
| D-COE-D36001-PA | Lock Haven flood protection project, West Branch, Susquehanna River and Bald Eagle Creek, Pennsylvania. | LO-2 | D |
| D-COE-D36002-WV | Channel Rehabilitation project, Coal River Basin, W. Va. | LO-1 | D |
| D-COE-E35001-FL | Panacea Harbor, Wakulla County, maintenance and dredging, Florida. | ER-2 | E |
| D-COE-F32001-OH | Navigation project, Huron Harbor, Erie County, Huron, Ohio. | LO-2 | F |
| D-COE-F32003-MI | Fiscal year 1975 navigation season extension demonstration program, Michigan. | LO-1 | F |
| D-COE-L36002-OR | Turning basin at Astoria, Columbia, and lower Willamette Rivers, Oregon. | LO-1 | K |
| DS-COE-L36003-WA | Chief Joseph Dam additional units, operation and maintenance, Columbia River, Washington. | LO-1 | K |
| Department of Defense: | | | |
| D-USN-K11002-CA | Proposed new berthing pier No. 7, naval station, San Diego, Calif. | LO-2 | J |
| Federal Power Commission: | | | |
| D-FPC-F03001-OH | Crawford underground storage project, Hocking and Fairfield Counties, Ohio. | ER-2 | F |
| General Services Administration: | | | |
| D-GSA-E81001-SC | Federal building and courthouse, Columbia, S.C. | LO-1 | E |
| Department of Housing and Urban Development: | | | |
| D-HUD-B89001-MA | Urban renewal, Heritage Plaza East, Salem, Essex County, Mass. | LO-2 | B |
| Department of Interior: | | | |
| D-IBR-G28001-TX | Nueces River project, Choke Canyon dam and reservoir site, Texas. | ER-1 | G |
| D-SFW-K61003-AZ | Proposed Cabeza Prieta Wilderness Area, Yuma and Pima Counties, Ariz. | LO-1 | J |
| Department of Transportation: | | | |
| D-FAA-A51860-IA | Cedar Rapids Municipal Airport, Iowa | LO-2 | H |
| D-FAA-A51861-PA | Jimmy Stewart Airport, Indiana, Pa | LO-2 | D |
| DS-FHW-A41457-IA | North-south freeway 561, Dubuque County, Iowa | LO-2 | H |
| DS-FHW-A41692-IA | F-561, Scott and Clinton Counties, Iowa | LO-1 | H |
| D-FHW-A42247-NY | Interstate route 518, west side from Batter, N.Y. | 3 | C |
| D-FHW-A42288-CA | Freeway development, CA-101 in Sonoma County, Cloverdale, Calif. | LO-1 | J |
| D-FHW-A42300-TX | Loop 340, from U.S. 84 in Bellmead to FM 3051 in McLennan County, Tex. | ER-2 | G |
| D-FHW-A42298-WI | Madison St. Underpass, City of Eau Claire, Eau Claire County, Wis. | LO-2 | F |
| D-FHW-B40001-MA | Route 140, highway relocation, Worcester County, Gardner-Westminster, Mass. | ER-2 | B |
| D-FHW-B40002-MA | Route 52, extension, Worcester County, Oxford-Auburn, Mass. | ER-2 | B |
| D-FHW-E40001-FL | SR-75, U.S. 231, Jackson County, Fla | LO-2 | E |
| D-FHW-F40001-MN | M.R. 41 from U.S. 169 to M.R. 7, Scott and Carver Counties, Minn. | ER-2 | F |
| D-FHW-F40002-MN | U.S. 14, Mankato by-pass from U.S. 169 to existing U.S. 14 and MN-60, Blue Earth County, Minn. | LO-1 | F |
| D-FHW-G40001-TX | Loop 363, from I-35 in Temple Northwest to SH 36, Bell County, Tex. | LO-2 | G |

| Identifying No. | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| D-FHW-H40000-IA | U.S. 6, Scott County, Iowa | ER-2 | H |
| FHW-H40001-KS | 95th St., Lenexa and Overland Park, Johnson County, Kans. | ER-2 | H |
| D-FHW-L40002-ID | Cherry Lane, Linder Road to U.S. 30, Idaho | LO-1 | K |
| D-FHW-L40005-OR | West Portland Park and Ride, Oreg. | LO-1 | K |
| RD-CGD-A52073-00 | Proposed regulations to implement Port and Water Safety Act of 1972 (P.L. 92-340). | ER-2 | A |

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

*Environmental Impact of the Action*

*LO—Lack of objection*

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

*ER—Environmental reservations*

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

*EU—Environmentally unsatisfactory*

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

*Adequacy of the Impact Statement*

*Category 1—Adequate*

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

*Category 2—Insufficient information*

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

*Category 3—Inadequate*

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Aug. 16, 1974 and Aug. 31 1974*

| Identifying No. | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| Department of Agriculture: | | | |
| F-REA-A08016-MS | Purvis Generating Plant, units 1 and 2, four 161 KV transmissions lines, Lamar County, Miss. | EPA requested clarification as to what process will be used to control sulfur dioxide emissions. | E |
| F-SCS-A36221-AL | Swan Creek Watershed, Limestone County, Ala. | Generally, EPA had no objections to the project as proposed. However, EPA emphasized that for the project to proceed appropriate Federal permits may be needed pursuant to the FWPCAA of 1972. | E |
| Department of Commerce: | | | |
| F-DOC-A99081-HI | Field test of the submarine sand recovery system, Hawaii. | EPA expressed no objections to the project as proposed. | J |
| Corps of Engineers: | | | |
| FS-COE-A32305-CA | Lakeport Lake project, Lake County, Calif. | EPA has continuing concerns regarding the proposed project and is reserving final comment until the COE provides response to the findings as to the suggested trace element water quality study, the results of the Corps' study of the need for water quality appurtenances, suggestions of water contract stipulations, and indications of implementing a water quality monitoring program. | J |
| F-COE-A34074-AL | Jones Bluff Lock and Dam, Alabama River Basin, multi-purpose impoundments, Alabama. | EPA recommended that the COE supplement the final statement with data relating to the dissolved oxygen change that has taken place since impoundment and information more precisely stating the adverse effects due to natural stream reaeration. | E |
| F-COE-A34100-OH | East Fork Lake, Clermont County, Ohio. | EPA requested assurance from the COE that stream flows for both Ceasar Creek and East Fork be maintained at current critical low flows, as a minimum, on a continuous basis. Also EPA recommended that an implementation schedule with the necessary commitments providing for adequate treatment of all point source discharges upstream of the dams should be adopted. | F |
| F-COE-A34132-OH | Ceasar Creek Lake, Warren County, Ohio. | | |
| F-COE-A39064-WV | Beach Fork Lake, Beach Fork Creek, Twelvepole Creek Basin, Cabell and Wayne Counties, W. Va. | EPA recommended careful monitoring or water quality in the creek because the high fecal coliform counts may limit or prohibit recreation at the facility. | D |

| Identifying No. | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| Department of Defense: | | | |
| F-USN-A10040-WA | Trident support site at Bangor, Wash. | EPA expressed no objections to the project as proposed. | K |
| Federal Power Commission: | | | |
| F-FPC-A03050-00 | Consolidated System LNG Co., Loudoun-Leidy project, Virginia, Maryland, and Pennsylvania. | EPA requested that the FPC provide additional information to permit EPA to assess the environmental impact of the proposed action. | D |
| Department of Interior: | | | |
| F-DOI-A61127-ND | Garrison diversion unit, Pick-Sloan Missouri Basin program, North Dakota. | EPA expressed serious concerns regarding the environmental impacts of the proposed project. Pending the resolution of the major environmental issues, EPA expressed concern about the forthcoming construction activities which would commit the Bureau of Reclamation to an irreversible course of action, notwithstanding the adverse environmental effects. | I |
| Department of Transportation: | | | |
| F-FHW-A40104-PA | LR 1015, TR 119, Uniontown, Fayette County, Pa. | EPA expressed no objections to the project as proposed. | D |
| F-FHW-A41204-IL | FA route 45, Mannheim Road, 197th St. to 143rd St., Cook County, Ill. | do | F |
| F-FHW-A41423-PA | LR 557, Allentown to South Whitehall Township, Lehigh County, Pa. | EPA expressed no objections to the proposed project. | D |
| F-FHW-A42045-WI | STH 33, CTH "P" to USH 41, Washington and Dodge Counties, Wis. | EPA expressed no objections to the project as proposed. | F |
| F-FHW-A42184-CA | I-15 in and near Escondido, San Diego, County, Calif. | do | J |
| F-FHW-A42334-OH | SR 619, State St., Cummit County, City of Barberton, Ohio. | do | F |
| F-FHW-A41947-HI | Interstate route H-3, Halowa/Halelou supplement, Honolulu, Hawaii. | EPA expressed its continuing reservations concerning the public health impacts of the proposed project, and accordingly, requested the FHWA to undertake an updated air quality analysis so that EPA could ascertain what these public health impacts will be. | J |

APPENDIX IV.—*Regulations, legislation, and other Federal agency actions for which comments were issued between Aug. 16, 1974 and Aug. 31, 1974*

| Identifying No. | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| Department of Transportation: | | | |
| R-DOT-A86058-00 | Docket number HM-103—transportation of hazardous materials; and docket number HM-112—hazardous materials regulations. | EPA expressed several concerns relating to the proposed regulations intended to deal with substances in transport. | A |
| R-FAA-A52075-00 | 14 CFR Part 121, aircraft security, use of X-ray devices. | EPA stated that the potential impact of these proposed regulations is very significant and recommended that an environmental impact statement be prepared. | A |

APPENDIX V

SOURCE FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs,
Environmental Protection Agency,
401 M Street SW.,
Washington, D.C. 20460

B. Director of Public Affairs,
Region I, Room 2303,
John F. Kennedy Federal Building,
Boston, Massachusetts 02203

C. Director of Public Affairs,
Region II,
Environmental Protection Agency,
Room 847,
26 Federal Plaza,
New York, New York 10007

D. Director of Public Affairs,
Region III,
Environmental Protection Agency,
Curtis Building, 6th and Walnut Streets,
Philadelphia, Pennsylvania 19106

E. Director of Public Affairs,
Region IV,
Environmental Protection Agency,
Suite 300,
1421 Peachtree Street NE.,
Atlanta, Georgia 30309

F. Director of Public Affairs,
Region V,
Environmental Protection Agency,
1 N. Wacker Drive,
Chicago, Illinois 60606

G. Director of Public Affairs,
Region VI,
Environmental Protection Agency,
1600 Patterson Street,
Dallas, Texas 75201

H. Director of Public Affairs,
Region VII,
Environmental Protection Agency,
1735 Baltimore Street,
Kansas City, Missouri 64108

I. Director of Public Affairs,
Region VIII,
Environmental Protection Agency,
Lincoln Tower, Room 916,
1860 Lincoln Street,
Denver, Colorado 80203

J. Director of Public Affairs,
Region IX,
Environmental Protection Agency,
100 California Street,
San Francisco, California 94111

K. Director of Public Affairs,
Region X,
Environmental Protection Agency,
1200 Sixth Avenue,
Seattle, Washington 98101

[FR Doc.74-22055 Filed 9-20-74;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE (CTAC) PANEL 2 (SUBJECT EVALUATIONS: PICTURE QUALITY)

#### Notice of Meeting

SEPTEMBER 12, 1974.

Pursuant to section 10 of the Federal Advisory Committee Act, 5 U.S.C. App. I § 10 (Supp. II, 1972), notice is hereby given of a meeting of the CTAC Panel 2 (Subject Evaluations; Picture Quality) meeting on October 2, 1974, to be held at 2025 M Street, NW., Washington, D.C. Room 6331. The meeting is scheduled to commence at 10 a.m.

The agenda is as follows:

(1) Review of Draft of Panel 2 Report.
(2) Review Proposed Format and Content of Stimulus Tape Recordings.
(3) Review Psychologist Proposal.
(4) Review Details of Recording Session at RCA, Camden Scheduled for Week of October 14, 1974.
(5) Progress Report on Proposal to National Science Foundation.
(6) New Business.
(7) Adjournment.

Any member of the public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. A. M. Rutkowski, FCC, 1919 M Street, NW., Washington, D.C. 20554—(202) 632-9797.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Secretary.*

[FR Doc.74-21978 Filed 9-20-74;8:45 am]

[FCC 74-981, Docket No. 20191]

### MICHIGAN BELL TELEPHONE CO.

#### Memorandum Opinion and Order Instituting Investigation and Hearing

1. On July 16, 1974, Michigan Bell Telephone Company (Michigan Bell) filed Tariff F.C.C. No. 37, cancelling its prior Tariff F.C.C. No. 33, under Transmittal No. 374 which is currently scheduled to become effective September 17, 1974. This tariff provides for an average increase of 275 percent in the monthly rates and nonrecurring charges applicable to Michigan Bell's CATV channel distribution service provided to cable television system operators in Michigan. The four affected cable television operators and the principal Michigan communities served by each are: Wonderland Ventures, Inc. (Wonderland), serving Flint; Twin Valley Community Antenna T.V., Inc. (Twin Valley), serving Jonesville and Hillsdale; Fetzer Cablevision (Fetzer), serving Kalamazoo; and Wolverine Cablevision, Inc. (Wolverine), serving Battle Creek and Albion. In the economic data submitted pursuant to

section 61.38 of our rules, Michigan Bell estimates that the proposed increases will provide additional revenues of approximately $2,900,000.00 annually (to produce an overall rate of return for the service of 9½ percent).

2. On August 13, 1974, Wonderland and Twin Valley filed a joint petition requesting suspension, an investigation, and an accounting order with respect to Michigan Bell's proposed tariff increases [1] and Fetzer and Wolverine filed similar petitions on their own.

The essence of the various suspension petitions is that the proposed tariff increases are unlawful under sections 201 (b) and 202(a) of the Act because, among other things, the cable operators involved will be unable to generate the additional revenues required to meet the proposed tariff increases due to (a) an unwillingness on the part of their subscribers, both present and proposed, to pay the increased subscription fees that will be necessary in light of the increased tariff rates and (b) the impossibility of cutting their own expenses in light of, among other things, present economic conditions. Thus, the petitioners claim they may be forced out of the cable television business by such increases. In addition, the petitioners challenge the sufficiency of several aspects of Michigan Bell's § 61.38 material, in particular, Michigan Bell's utilization of costs that are based upon estimates of what it would cost Michigan Bell to build and service the systems today, resulting in a new and higher rate base, rather than utilization of actual historical (original) costs of building and servicing the systems. Finally, the petitioners make the very serious contention that in view of recent negotiations among the various cable operators and Michigan Bell regarding possible purchase of the facilities in question by the operators, the instant filing, with such substantial rate increases, is designed to force the cable operators to choose between the prospect of going out of business or accepting the unjust and unreasonable terms of Michigan Bell's offer to sell. In its responsive pleading Michigan Bell denies the allegations of the various petitions, alleges that its tariff filing is lawful and sufficient in all respects, and requests that the various suspension petitions be denied.

3. Upon consideration of the previous tariff rates, the proposed tariff rates, Michigan Bell's § 61.38 material, and the pleadings of the parties we are of the opinion that questions of lawfulness are raised as to whether the proposed tariffs are lawful within the meaning of section 201(b) and 202(a) of the Act. Initially, we are concerned with the magnitude of the rate increases and whether such rate increases are unjust and unreasonable or otherwise unlawful within the meaning of sections 201(b) and 202(a) of the Act. In addition, a question exists as to whether Michigan Bell's previous rates and rate of return were unduly low. Regarding the § 61.38 material submitted by Michigan Bell, we note that Michigan Bell uses current reproduction costs in developing the rate base rather than original costs of plant. The justification for departing from original cost depreciated ratemaking is not clearly stated in Michigan Bell's § 61.38 material nor in its pleading and, therefore, questions of lawfulness exist as to whether Michigan Bell's rate base was properly calculated. We are also concerned about the alleged relationship of this tariff filing to the various purchase negotiations and whether Michigan Bell's conduct in making such filing, under all the facts and circumstances, constitutes an unlawful practice within the meaning of section 202(a) of the Act.

4. In view of the foregoing, we are unable to conclude that Michigan Bell's tariff filing is lawful. We shall therefore designate this tariff filing for hearing and shall suspend the effectiveness thereof for the full statutory ninety-day period and enter an accounting order providing for possible refunds. 47 U.S.C. 204.

5. In the present case, due to the magnitude of the increases and the potential for harm to petitioners if they are required to pay the substantial rate increases to Michigan Bell during the pendency of a prolonged trial-type hearing before the Commission, we shall order that "paper" proceedings be utilized to expedite the resolution of this controversy. Such proceedings provide for the submission of interrogatories and requests for information, which process merges cross-examination and the informal gathering of information traditionally undertaken during the prehearing and hearing stages of rulemaking proceedings. However, participants may, if they so desire, call witnesses for oral examination with regard to alleged unlawful coercive conduct on the part of Michigan Bell. If such a request is made the Administrative Law Judge shall call a conference of the parties to set dates for oral proceedings which should, if at all possible, not delay the completion of procedures herein established. The Administrative Law Judge shall prepare Findings of Fact and Conclusions of Law with regard to evidence presented at any such oral proceeding. Further, due and timely execution of our regulatory function in this case imperatively and unavoidably requires that we issue a final decision upon the close of the record without initial, recommended, or tentative decision. We believe the employment of the procedures noted above will best conduce to the proper dispatch of business and the ends of justice and promote the objectives of the Act for expeditious resolution of the issues herein. 47 U.S.C. 154(j) and 204. Should it develop that the procedures which we are establishing prove inadequate or result in unfairness to any person, orders in modification thereof shall be issued.

6. *Accordingly, it is ordered,* That, pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation and hearing is instituted into the lawfulness of the tariff schedules filed by Michigan Bell with Transmittal No. 347, including any cancellations, amendments or re-issues thereof.

7. *It is further ordered,* That, pursuant to the provisions of section 204, the revised tariff schedules filed by Michigan Bell and submitted with Transmittal No. 347 are hereby suspended until December 16, 1974 and that Michigan Bell, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision therein, the Commission may by further order, require the refund thereof, with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require.

8. *It is further ordered,* That without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations, will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;

(3) If any of such charges, classifications, practices, or regulations are found to be unlawful, whether the Commission, pursuant to section 205 of the Act, should prescribe charges, classifications, practices and regulations for the service governed by the tariffs, and if so, what should be prescribed;

(4) Whether, in light of the purchase negotiations being conducted with its customers, Michigan Bell's conduct in filing the substantial rate increases in question, under all the facts and circumstances, constitutes an unlawful practice within the meaning of section 202(a) of the Act.

9. *It is further ordered,* That the following procedures will apply in this proceeding:

(a) The record for decision will consist of all matters submitted for the record by respondents, interested persons and the Common Carrier Bureau trial staff. Interrogatories and information requests and responses thereto shall be part of the record. Such submittals to-

[1] Pursuant to delegated authority, the Chief, Common Carrier Bureau denied the separate joint petition of Wonderland and Twin Valley to reject the tariff filing by Order adopted on September 3, 1974, and released on September 4, 1974. The Commission has before it an application for review of the Bureau's action filed by Wonderland and Twin Valley on September 5, 1974. We have considered the grounds stated in such application, as well as petitioners' reply to Michigan Bell's opposition to rejection, and shall deny the application.

gether with supporting documentation and workpapers will be available for public inspection as they are received.

(b) All matters submitted for the record, including answers to interrogatories and responses to information requests, must be identified as to sponsoring party, numbered consecutively and identified with the name of a person by whom or under whose supervision the submittal was prepared.

(c) The source of all data must be clearly and specifically noted. Supporting documents which are not readily available and working papers must be presented with the submittals to which they apply. Statistical studies will be submitted and supported in the form prescribed in section 1.363 of the Commission's rules.

(d) Original and five copies of all matters submitted for the record as well as of supporting documentation and workpapers must be filed with the Commission. Part I of our Rules governs as to the number of copies and other submissions, such as briefs, pleadings and proposed findings. Matters submitted for the record shall be served on all interested persons filing a notice of intent to participate ("participants").

(e) Interrogatories and requests for information must be filed with the Commission and served on the participants to this proceeding. Objections to interrogatories and information requests should be resolved, if possible, by immediate informal conferences between the persons involved and the Trial Staff. If such persons are unable to resolve their differences, the Administrative Law Judge should be notified, and on notification should convene an immediate oral conference of the persons involved. After oral presentations by such persons and the Trial Staff the Judge shall forthwith issue a ruling. Appeals from such rulings shall be governed by 47 CFR 1.301 except that the Judge shall set an expedited procedure.

(f) Requests for oral proceedings must be filed with, and acted upon, by the Commission and must be specific as to the issues requiring further evidence, the persons to be cross-examined and the reason why such oral proceedings are required to avoid prejudice. Oral proceedings, if any, will be held before the Administrative Law Judge who will certify the record of such proceedings to the Commission.

10. *It is further ordered*, That the following schedule will be adhered to:

(a) Within 20 days of the release of this order Michigan Bell may supplement the materials submitted pursuant to § 61.38 of our rules. Any such supplementation, together with the material originally filed will form the evidence upon which it intends to rely. At the same time Michigan Bell should place materials already filed into proper form as described in paragraph 9 at "b" above.

(b) Participants may file with the Commission written interrogatories for Michigan Bell witnesses and requests for information within 15 days following the filing of any supplement to Michigan Bell's direct case. Answers to such interrogatories and requests for information shall be filed within 20 days of the filing thereof.

(c) If necessary, further interrogatories and requests for information may be filed within 10 days of filing of answers to the first interrogatories and requests for information. Answers to such second interrogatories and requests for information should be filed within 10 days of the filing thereof.

(d) Participants may file material in response to Michigan Bell within ten days following the filing of answers to interrogatories and requests for information which they have submitted in accordance with sub-paragraph (c) above, except that this period will not be tolled pending resolution of conflicts with regard to answers which are not forthcoming but contested.

(e) Any participant may serve interrogatories and requests for information on other participants filing material in response to Michigan Bell within 15 days of the filing of such responses. Answers to such interrogatories and requests for information shall be filed within 20 days of the filing thereof.

(f) Further interrogatories and requests for information on other participants may be filed within 10 days of the filing of such answers to the first interrogatories and requests for information. Answers to such second interrogatories and requests for information shall be filed within 10 days of the filing thereof.

(g) Michigan Bell may file material in reply to that submitted by other participants within ten days following the filing of answers to all interrogatories and requests for information which they have submitted in accordance with sub-paragraph (f) above, except that this period will not be tolled pending resolution of conflicts with regard to answers which are not forthcoming but contested.

(h) In response to the material which Michigan Bell submits in accordance with sub-paragraph (g) above, any participant may serve interrogatories and requests for information within 10 days following the submittal of such material. Answers to such interrogatories and requests for information shall be filed within 10 days of the filing thereof.

(i) Proposed findings of fact and conclusions of law may be filed by any participant within 30 days of the filing of the last filed responses to interrogatories and requests for information .

(j) Replies to the Proposed Findings of Fact and Conclusions of Law may be filed by any participant within 15 days of the filing of such findings and conclusions.

11. *It is further ordered*, That, the Petitions are granted to the extent noted herein and otherwise denied.

12. *It is further ordered*, That Michigan Bell is hereby made party respondent herein, and that pursuant to § 1.221 (d) of the Commission Rules Wonderland, Twin Valley, Fetzer, and Wolverine are made parties to the proceeding, and that all other interested persons wishing to participate may do so by filing a notice of intent to participate within 10 days of the release of this order.

13. *It is further ordered*, That, upon closing of the record, the Commission shall issue a final decision herein.

14. *It is further ordered*, That pursuant to § 1.1209(d) of the Commission's Rules, a separated trial staff will participate in this proceeding. As provided therein, the Chief, Hearing and Legal Division and his staff will be separated from the Commission, the presiding Administrative Law Judge, the Office of the General Counsel, and the Chief, Deputy Chief and all Division Chiefs of the Common Carrier Bureau, but are unrestricted in their access to all other Commission personnel.

15. *It is further ordered*, That, the Commission will rule on requests for oral proceedings except as provided in paragraph 5 herein. Objections to the admissibility of evidence may be made in Proposed Findings of Fact and Conclusions of Law and Replies thereto and will be considered by the Commission in arriving at its decision. All other procedural requests should be addressed to the Administrative Law Judge who shall rule thereon unless a significant modification of the procedures here established is required in which case the request should be certified to the Commission.

Adopted: September 16, 1974.

Released: September 16, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.74-21977 Filed 9-20-74;8:45 am]

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[Docket Nos. 20179, 20180; File Nos. BPH-8523, BPH-8732]

## TRI-COUNTY STEREO INC. ET AL.

### Designating Applications for Construction Permits; Consolidated Hearing on Stated Issues

In re applications of Tri-County Stereo, Inc., Avon Park, Florida; Requests: 106.3 mHz; channel No. 292; 3 kW(H&V); 154.9 feet; Morison Enterprises, Inc. of Polk County, Avon Park, Florida; Requests: 106.3 mHz; channel No. 292; 3 kW(H&V); 300 feet for construction permits.

1. The Chief of the Broadcast Bureau, acting pursuant to delegated authority, § 0.281 of the rules, has under consideration the above-captioned applications, which are mutually exclusive in that the applicants seek the same channel in Avon Park, Florida.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM)

[1] Commissioners Reid and Hooks concurring in the result.

in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Tri-County Stereo, Inc. (Tri-County) proposes to operate a minimum of 16 hours per day and proposes duplication of commonly-owned standard station WAPR six hours per day. Morison Enterprises, Inc., of Polk County (Morison), proposes 100 percent independent programming. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360 (1967).

4. The survey of community problems and needs submitted by Tri-County fails to state the total population of Avon Park. In addition, no details on any minority groups (except for Blacks) are given, nor is there a statement that there are no other significant minority groups in the area. No list of civic or social organizations is provided. Further, there is no description of the economic activities of the community, including business, industry, or labor, although the applicant does make reference to the citrus industry and to the seasonal employment related thereto. With reference to consultations with community leaders, the applicant has failed to indicate that consultations were conducted with labor leaders. Lastly, Tri-County has not stated what time of day it plans to air the programs which it has determined will meet the problems and needs of the community. Consquently, an appropriate issue will be included.

5. Morison's survey of community problems and needs states that the community leaders were contacted by Mrs. Anne T. Morison, and by two others, Anthony J. Alexander and Frank Ujlaki, all under the supervision of Mrs. Anne S. Morison. However, there is no indication as to whether Mr. Alexander and Mr. Ujlaki are management-level employees of the applicant. Consequently, it is impossible to determine whether the requirements of question and answer 11 (a) of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650 (1971), have been met. Moreover, the survey indicates that the members of the general public were contacted by three persons under Mrs. Anne S. Morison's supervision. However, since we are not told whether these persons are employees or prospective employees, we cannot determine whether the requirements of question and answer 11(b) of the *Primer* have been met. Finally, while some of the community leaders contacted from South Wales and Frostproof included Blacks, the interviews with community leaders from the proposed city of license apparently failed to include Black leaders and also leaders of industry, labor, citrus organizations, representatives of the beef and dairy industry, all of which had been mentioned in the applicant's composition of the community as significant. Accordingly, an appropriate issue has been included as to this applicant as well.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *Accordingly, It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by both applicants to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet these problems.

2. To determine, which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publications of such notice as required by § 1.594(g) of the rules.

Adopted: September 12, 1974.

Released: September 17, 1974.

FEDERAL COMMUNICATIONS COMMISSION

[SEAL] HAROLD L. KASSINS,
*Acting Chief, Broadcast Bureau.*

[FR Doc.74-21979 Filed 9-20-74;8:45 am]

[Canadian List 330]

## CANADIAN STANDARD BROADCAST STATION ASSIGNMENTS

### Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

SEPTEMBER 6, 1974.

| Call letters | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | *670 kHz* | | | | | | | |
| New (assignment of call letters). | Musgravetown, Newfoundland, N. 48°24'10", W. 53°55'00". | 10 | DA-2 | U | II | | | | E.I.O. 9-6-75. |
| | | *810 kHz* | | | | | | | |
| *CKJS* | Winnipeg, Manitoba, N. 49°44'07", W. 97°11'36". | 10 | DA-1 | U | II | | | | |
| | | *1240 kHz* | | | | | | | |
| *CJNH* (assignment of call letters). | Bancroft, Ontario, N. 45°03'37", W. 77°50'20". | 1D/0.25N | ND-175 | U | IV | [1] 140 | 120 | 200 | |
| | | *1400 kHz* | | | | | | | |
| CFLD (change in site) | Burn Lake, British Columbia, N. 54°14'03", W. 125°46'27". | 0.25 | ND-175 | U | IV | 120 | 120 | 282 | |
| | | *1400 kHz* | | | | | | | |
| *CHNL-1* (assignment of call letters). | Clearwater, British Columbia, N. 51°39'26", W. 120°04'54". | 1D/0.25N | ND-191 | U | IV | 180 | 120 | 282 | |
| | | *1400 kHz* | | | | | | | |
| CKOB (correction to coordinates). | Renfrew, Ontario, N. 45°26'55", W. 76°40'45". | 0.25 | ND-180 | U | IV | 135 | 120 | 250 | |
| | | *1400 kHz* | | | | | | | |
| *CKRV* (assignment of call letters). | Drummondville, Quebec, N. 45°52'-12", W. 72°30'48". | 0.25N/0.1N | DA-1 | U | IV | | | | |
| | | *1440 kHz* | | | | | | | |
| CFGO (now in operation with increased power). | Ottawa, Ontario, N. 45°16'59", W. 75°44'31". | 50 | DA-1 | U | III | | | | |

[1] Top loaded to 75°.

[SEAL]

HAROLD L. KASSENS,
*Acting Chief, Broadcast Bureau,*
*Federal Communications Commission.*

[FR Doc.74-21982 Filed 9-20-74;8:45 am]

## FEDERAL MARITIME COMMISSION

### GULF/UNITED KINGDOM FREIGHT CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 3, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Edward S. Bagley, Esquire
Terriberry, Carroll, Yancey & Farrell
2141 International Trade Mart
2 Canal Street
New Orleans, Louisiana 70130

Agreement No. 161-27 modifies the basic agreement of the above named Conference (1) to extend its jurisdiction to include places or points on inland waterways tributary to the ocean points and ranges in the U.S. Gulf and the United Kingdom, (2) to alter its self-policing provisions and (3) to make changes in its administrative procedures and requirements.

Dated: September 18, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-22018 Filed 9-20-74;8:45 am]

### JOHNSON LINE AND NOSAC

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 15, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notices of agreement filed by:

John R. Mahoney, Esquire
Casey, Lane & Mittendorf
26 Broadway
New York, New York 10004

Agreement No. 10141 between the above named carriers provides for the parties to cooperate in the carriage of automobiles and other vehicles under the

name Johnson Line/Nosac either directly from United Kingdom ports or by transshipment from such ports via other European ports to ports on the West Coast of the United States in accordance with terms and conditions contained therein.

Dated: September 18, 1974.

By order of the Federal Maritime Commisison.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-22019 Filed 9-20-74;8:45 am]

[Docket No. 74-42]

## POUCH TERMINAL, INC., AND PORT OF NEW YORK AUTHORITY AND NEW JERSEY

### Notice of Filing of Complaint

SEPTEMBER 18, 1974.

Notice is hereby given that a complaint filed by Pouch Terminal, Inc. against The Port Authority of New York and New Jersey alleging violations of sections 16 and 17 of the Shipping Act, 1916 in connection with respondent's terminal leasing practices was served by the Commission on September 17, 1974.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74-22017 Filed 9-20-74;8:45 am]

# FEDERAL POWER COMMISSION

[Docket No. ID-1524]

## DONALD G. ALLEN

### Supplemental Application

SEPTEMBER 17, 1974.

Take notice that on August 26, 1974, Donald G. Allen (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Director, Connecticut Yankee Atomic Power Company, Public Utility.

Connecticut Yankee Atomic Power Company is engaged in the generation and sale of electricity. The Company sells its entire net electrical output to its utility company stockholders.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22038 Filed 9-20-74;8:45 am]

[Project Nos. 432, 2748]

## CAROLINA POWER & LIGHT CO. AND NORTH CAROLINA ELECTRIC MEMBERSHIP CORP.

### Competing Application for New License for Constructed Project; Order Setting Hearings and Consolidating Proceedings

SEPTEMBER 16, 1974.

Public notice is hereby given that a competing application for a new major license was filed August 20, 1974, under the Federal Power Act (16 U.S.C. 791a-825r) by North Carolina Electric Membership Corporation (NCEMC) (Correspondence to Robert N. Cleveland, Executive Vice President, North Carolina Electric Membership Corporation, Post Office Box 1699, Raleigh, North Carolina 27062; Tally & Tally, Suite 307, 1300 Connecticut Avenue, NW., Washington, DC 20036, and Post Office Drawer 1660, Fayetteville, North Carolina 28902; Edward P. Martin, Southern Engineering Company of Georgia, 1000 Crescent Avenue, NE., Atlanta, Georgia 30309; Robert E. Bathen, R. W. Beck & Associates, Post Office Box 6817, Orlando, Florida 32803; and William T. Crisp, Post Office Box 1699, Raleigh, North Carolina 27602) for constructed Walters Hydroelectric Development No. 432 located in Haywood County, North Carolina, in the region of Waynesville and Canton, North Carolina, and near Newport, Cocke County, Tennessee, on the Pigeon River. The project affects navigable waters of the United States.

This application is a competing application to that of Carolina Power & Light Company (CP&L), current licensee of the Walters Hydroelectric Development No. 432. The application by CP&L for a new license for the Walters Project was filed August 7, 1973. Public notice of that application was given December 5, 1973, with February 1, 1974, as the last date for intervention. On January 31, 1974, a petition to intervene was filed by the following related entities: (1) EPIC, Inc.; (2) North Carolina Consumers Power, Inc.; (3) the City of Shelby; (4) North Carolina Electric Membership Corporation; and (5) Blue Ridge Electric Membership Corporation. These parties were granted intervention by our order issued March 18, 1974.

The existing Walters Hydroelectric Development consists of: (1) a concrete arch dam 185 feet high and approximately 900 feet long, with a spillway containing 14 steel taintor gates each 24 feet by 10 feet; (2) a reservoir with a surface area of 340 acres at normal high water elevation 2258.6 feet above mean sea level; (3) a concrete-lined water tunnel 32,700 feet long, extending from the base of an intake structure 120 feet high; (4) a 42-foot diameter steel surge tank 193 feet high; (5) three 8-foot diameter penstocks each 615 feet long; (6) a powerhouse containing three electric generating units each rated at 36,000 kW plus a 600 kW house service generator; and (7) appurtenant facilities.

This general description of the project and principal project works was adopted by NCEMC from the application for new license of CP&L. NCEMC states that in addition it proposes public recreation facilities, for which further details have been requested by the Secretary.

NCEMC states that the initial and, in all probability the ultimate use of the power to be generated by the project is proposed to be the same as under the current license. The initial market for the power generated is those members of NCEMC which presently receive some or all of their wholesale power requirements from the current licensee as set forth in Exhibit U of the competing application.

The application filed by NCEMC is in essence identical to that of CP&L with additional recreational facilities included. Therefore, we are of the opinion that these two dockets should be consolidated, with the above intervenors in Project No. 432 made intervenors herein, and set for hearing.

Any additional person desiring to be heard or to make protest with reference to said application should on or before November 11, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Both the application by CP&L and that by NCEMC are deficient as set forth in the Secretary's letters dated September 3, 1974. Both applicants have been requested to file proper Exhibits F and K. NCEMC has been requested to file proper Exhibits R and S. Additionally, several technical deficiencies in NCEMC's application arise, in the main, as a result of rote reproduction and incorporation by reference of the application of CP&L, thereby including in this application statements which are untenable by this applicant in light of our regulations. We expect that both the Exhibits R and S deficiencies and the technical deficiencies will be cured by the date set in the deficiency letter.

*The Commission finds:* (1) It is appropriate and in the public interest to hold a prehearing conference and such hearings as may be required as hereinafter provided on the question of the issuance of a new license for this project.

(2) The actions designated as Project No. 432 and Project No. 2748 are for licenses for the same existing project facilities and should be consolidated.

*The Commission orders:* (A) The competing applications for a new license for the existing Walters Hydroelectric Development, having been docketed under Project No. 432 and Project No. 2748 are hereby consolidated.

(B) A prehearing conference before an Administrative Law Judge shall be held at 10 a.m. on November 19, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, respecting the issue of issuance of a new license for the Walters Hydroelectric Project, at which the parties shall be ready to set forth all issues of fact and law and stipulate to uncontroverted facts.

(C) If the Administrative Law Judge finds that there is disagreement on the facts bearing on the issuance of a new license, he shall schedule a hearing on the remaining factual issues to be followed by briefing and an initial decision in accordance with §§ 1.29 and 1.30 of the rules of practice and procedure.

(D) If the Administrative Law Judge finds no disagreement on material fact bearing on the question of the issuance of a new license, he shall provide a briefing schedule to be followed by an initial decision in accordance with §§ 1.29 and 1.30 of the rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22035 Filed 9-20-74;8:45 am]

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[Docket No. E-7523]

## CENTRAL TELEPHONE & UTILITIES CORP.

### Fourth Supplement to Application

SEPTEMBER 17, 1974.

Take notice that on September 4, 1974, Central Telephone & Utilities Corporation (Applicant), filed a fourth supplement to its application pursuant to section 204 of the Federal Power Act seeking authority to extend to not later than December 31, 1976, the final maturity date of short-term unsecured promissory notes to be authorized to be issued not later than December 31, 1975, in an aggregate principal amount at any one time outstanding of $85,000,000.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Lincoln, Nebraska. It is engaged in electric utility operations in the southeastern part of Colorado and the central and western portions of the State of Kansas.

The proceeds from the issuance of short-term notes are to provide temporary funds for the construction, completion, extension or improvement of facilities of Applicant and for advances to and investment in subsidiaries of Applicant to be used for the construction and improvement of facilities of such subsidiaries pending permanent financing. The estimated construction programs for the above purposes for 1974, 1975 and 1976 are $131,000,000, $135,000,000 and $141,000,000, respectively.

Any person desiring to be heard or to make any protest with reference to said fourth supplement to application should on or before October 3, 1974, file with the Federal Power 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The fourth supplement to application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22047 Filed 9-20-74;8:45 am]

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[Docket No. CP75-79]

## COLORADO INTERSTATE GAS CO.

### Application

SEPTEMBER 17, 1974.

Take notice that on September 9, 1974, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation, P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP75-79 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a revision in peak day sales, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant requests authority to increase transmission system peak-day jurisdictional sales by 22,000 Mcf beginning January 1, 1975. The application states that the increased jurisdictional peak-day volumes will be obtained by reducing the daily firm entitlement of two of Applicant's nonjurisdictional customers, Public Service Company of Colorado (Public Service Company) and Great Western Sugar Company (Great Western).

Applicant indicates that the contract with Public Service Company provided for the delivery of firm gas in the amount of 24,500 Mcf per day for use in its electric generating plants in the Denver area. By a direct gas sales agreement dated August 8, 1974, the parties agreed to reduce this firm obligation to 4,500 Mcf per day. Great Western's contract provided for a firm daily delivery obligation of 14,000 Mcf. The parties agreed to reduce this obligation to 12,000 Mcf per day, by a contract amendment dated July 5, 1974, because Great Western had at least this much excess firm entitlement. The highest daily volume sold to Great Western for the past three years was 10,941 Mcf which was 3,059 Mcf below the firm entitlement. Applicant states that with existing facilities, Great Western feels that no less than 12,000 Mcf per day will be needed in order to maintain operations under current plant design conditions.

The additional volumes have been allocated on a *pro rata* basis to Applicant's full requirement customers who have indicated a need for additional peak day volumes during the 1974–1975 heating season. Applicant states that all but 141 Mcf of the additional peak day volumes will be used for service to residential and small commercial customers and that total transmission system peak day and annual sales will not increase as a result of the proposed revisions.

Applicant estimates jurisdictional demand revenues will increase $303,738 and states that no new facilities will be required to implement the instant proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 11, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22031 Filed 9-20-74;8:45 am]

[Docket No. CP75-64]

## COLUMBIA GULF TRANSMISSION CO.

### Application

SEPTEMBER 17, 1974.

Take notice that on August 30, 1974, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed an application pursuant to section 7 (b) and (c) of the Natural Gas Act, as implemented by § 157.7(g) of the regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, for the 12-month period commencing January 1, 1975, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment will not exceed $2,000,000, nor will the cost of any single project exceed $500,000. Applicant states that the proposed facilities will be financed from current working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 7, 1974, file with the Federal Power Commision, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22039 Filed 9-20-74;8:45 am]

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[Docket No. CP75-65]

## COLUMBIA GULF TRANSMISSION CO.

### Notice of Application

SEPTEMBER 17, 1974.

Take notice that on August 30, 1974, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas, filed in Docket No. CP75-65 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, from January 6, 1975, to January 1, 1976, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof by its affiliate, Columbia Gas Transmission Corporation (Columbia Transmission), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system additional supplies of natural gas in areas generally co-extensive with said system. Applicant states that its existing operations consist of the transportation of natural gas purchased by Columbia Transmission and therefore requests a waiver of that portion of § 157.7 (b) which limits budget-type gas purchase facility authorization to construction of facilities necessary to connect an applicant's system with facilities of an independent producer or other smilar seller authorized to sell natural gas to the applicant.

Applicant states that the total cost of the proposed facilities would not exceed $7,000,000. Applicant submits that the rate of inflation since the present single project cost limits of $1,000,000 for any onshore project and 25 percent of the total budget amount for any offshore project were established by the Commission, together with increased water depths in which facilities must be laid, have severely limited the use of budget-type authorizations. Therefore, Applicant requests a waiver of that portion of § 157.7(b) which limits the cost of any single facility and requests authorization to construct any single onshore facility at a cost not to exceed $1,500,000 and any single offshore facility at a cost not to exceed $2,500,000. Such amounts would be financed with working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 7, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22040 Filed 9-20-74;8:45 am]

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[Docket No. E-8914]

## COMMONWEALTH EDISON CO.

### Filing of Service Schedule

SEPTEMBER 17, 1974.

Take notice that by letter dated July 18, 1974, the Commonwealth Edison Company of Illinois (Applicant) tendered for filing with the Federal Power Commission a Service Schedule contract between the City of Naperville, Illinois, and Applicant. Applicant states that on July 2, 1974, service to the Naperville Substation, located at Modaff Road and 83rd Street, Naperville, Illinois, was terminated. Applicant further states that it expects to terminate service to a permanent substation at Modaff Road and 75th Street, Naperville, Illinois, within one month. Applicant states that the removal of metering equipment required at the Modaff Road Substation will decrease the City's monthly rental payments from $817.95 to $770.10.

Applicant further requests that the Commission waive its 30 day notice requirements under the provisions of § 35.11 of the Commission's regulations, and that the contract be made effective as of July 2, 1974.

Any person desiring to be heard or to make any protest with reference to said

application should on or before October 16, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22037 Filed 9-20-74;8:45 am]

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[Docket Nos. RP74-90, RP73-107]

## CONSOLIDATED GAS SUPPLY CORP.

### Order Granting in Part and Denying in Part Motion of Commission Staff, and Prescribing Procedural Dates

SEPTEMBER 16, 1974.

The Commission staff on July 11, 1974, moved that the procedural dates in the above proceedings be indefinitely postponed pending further order of the Commission, that a seller of gas to Consolidated Gas Supply Corporation involved herein be made a respondent and, that an investigation under section 5 of the Natural Gas Act be instituted with respect to the seller's rates at such time as the Commission issues a further order and be consolidated with the present section 4 proceedings.

On March 15, 1974, as amended on April 16, 1974, Consolidated filed in Docket No. RP72-157 revised tariff sheets which proposed a rate change pursuant to its Purchased Gas Adjustment Clause (PGA Clause). These sheets were accepted for filing and made effective without suspension by letter order dated May 20, 1974. However, the Commission noted in that order that Consolidated's increase was based in part on the purchase of gas from an unspecified small producer at a price of 49 cents per Mcf and determined that the propriety of that rate would be reviewed in conjunction with the general rate increase proceedings pending at Docket No. RP73-107.

On May 16, 1974, Consolidated filed another general rate increase in Docket No. RP74-90. By order issued June 24, 1974, that filing was suspended for five months; Docket No. RP74-90 was consolidated with Docket No. RP73-107 for purposes of hearing and decision; and procedural dates were set for the consolidated proceedings. By notice of July 19, 1974, the Secretary of the Commission deferred the procedural dates pending Commission action on Staff's July 11, 1974, motion.

In its July 11, 1974, motion, Staff pointed out that on June 10, 1974, the Supreme Court had held that the Commission's standards in Order No. 428 [1] relating to the pricing of gas sold by small producers were not sufficiently clear.[2] The staff therefore requests that the Commission suspend the procedural dates pending further order of the Commission. The staff also asks that the small producer involved, now identified as Cecil Ramsey, be made a respondent and that a section 5 investigation be instituted into the rates charged Consolidated and that such investigation be consolidated with the present proceeding under section 4. Otherwise, the staff says, Consolidated might be required to make refunds without relief from the charges made by the producer.

In our opinion, we do not believe that the procedural dates in Docket Nos. RP73-107 and RP74-90, which involve two major rate cases, should be held in abeyance pending further order of the Commission merely because of the small producer rate issue raised in that proceeding. Accordingly, we shall re-set the procedural dates in this docket but order that the small producer issue be reserved in this docket pending further order of the Commission because of the status of Order No. 428.[3] We also believe that it is premature to determine whether an investigation of Consolidated's supplier's should be instituted. Accordingly, we shall consider that issue when we prescribe, by further order, the procedures to resolve the small producer issue in this docket.

*The Commission finds:* (1) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that staff's motion be granted, insofar as it proposes to reserve the determination of the small producer issue pending further order of the Commission; but be denied insofar as it proposes to defer the trial in Docket Nos. RP73-107 and RP74-90 of all issues save the small producer issue.

*The Commission orders:* (A) Staff's July 11, 1974, motion is granted to the extent it proposes to reserve the small producer issue raised in Docket Nos. RP73-107 and RP74-90 pending further order of the Commission.

(B) Staff's July 11, 1974, motion is denied to the extent it proposes to defer the trial of all issues in Docket Nos. RP73-107 and RP74-90 save the small producer issue and we shall prescribe revised procedural dates for the trial of these issues as set forth in Ordering Paragraph (C) below.

(C) The proposed testimony and exhibits of the Commission Staff shall be served on or before December 9, 1974. All intervenor evidence shall be served on or before December 23, 1974. Any rebuttal evidence by Consolidated shall be served on or before January 6, 1975. The public hearing herein ordered shall convene on January 21, 1975, at 10 a.m., e.d.t.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] 45 FPC, 454, 457 (March 18, 1971).

[2] F.P.C. v. Texaco, Inc., et al., —— U.S. ——, Docket Nos. 72-1490 and 72-1491 (June 10, 1974).

[3] See *Southern Natural Gas Company*, —— FPC ——, Docket Nos. RP73-64 and RP72-91, issued June 28, 1974, and similar cases.

[FR Doc.74-22044 Filed 9-20-74;8:45 am]

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[Docket No. RP72-134]

## EASTERN SHORE NATURAL GAS CO.

### Purchased Gas Cost Adjustment to Rates and Charges

SEPTEMBER 17, 1974.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on August 28, 1974, tendered for filing First Substitute Ninth Revised Sheet No. 3A and First Substitute Ninth Revised PGA-1 to its FOC Gas Tariff, Original Volume No. 1 to become effective October 1, 1974. Eastern Shore asserts that the proposed changes would increase revenues from jurisdictional sales and service by approximately $23,148 annually based on sales for the 12-month period ending July 31, 1974.

Pursuant to the Purchased Gas Adjustment Clause contained in its tariff, Eastern Shore proposes to increase the commodity or delivery charges in its rate schedules CD-1, CD-E, G-1, PS-1, E-1 and I by 0.8¢ per Mcf, equivalent to the increases in the similar rates of its sole supplier, Transcontinental Gas Pipe Line Corporation (Transcontinental), as contained in the latter's filing in Docket No. RP73-3 dated August 15, 1974. Eastern Shore requests waiver of the notice requirements of § 154.22 of the Regulations under the Natural Gas Act and § 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the proposed tariff sheets to become effective as of October 1, 1974, coincident with the proposed effective date of Transcontinental's rate changes.

Eastern Shore states that copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22027 Filed 9-20-74;8:45 am]

[Docket No. CP75-75]

## IOWA-ILLINOIS GAS AND ELECTRIC CO.

### Notice of Application

SEPTEMBER 17, 1974.

Take notice that on September 3, 1974, Iowa-Illinois Gas and Electric Company (Applicant), P.O. Box 4350, Davenport, Iowa 52808, filed in Docket No. CP75-75 an application pursuant to section 7(c) of the Natural Gas Act authorizing it to continue operation of approximately 1.06 miles of 12-inch natural gas pipeline facilities near Davenport, Iowa, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that in 1969, as requested by Applicant, Natural Gas Pipeline Company of America relocated its Linwood Station delivery point to a point approximately two miles north of its original location in the flood plain of the Mississippi River. In connection with said relocation, in 1969, Applicant constructed approximately 1.06 miles of 12-inch pipeline with a design capacity of 100,900 Mcf per day reconnecting relocated Linwood Station to its existing and certificated 8 and 10-inch facilities, at an installed cost of $89,977 financed from funds on hand. Applicant here seeks certificate authorization for continued operation of said reconnection facilities.

Applicant states that no additional gas deliveries will result from the proposal, but that the authorization sought is essential to continued maintenance of service in the greater Davenport area.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 7, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22042 Filed 9-20-74;8:45 am]

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[Docket No. E-9014]

## KANSAS GAS AND ELECTRIC CO.

### Proposed Service Schedule

SEPTEMBER 17, 1974.

Take notice that on September 9, 1974, Kansas Gas and Electric Company (Kansas G&E) tendered for filing a proposed service schedule between Kansas G&E and the Omaha Public Power District. The proposed service schedule would increase the rate at which the two companies exchange emergency power. Kansas G&E states that the proposed rate of 17.5 mills per kilowatt-hour was arrived at through negotiations and is equivalent to the rate charged by other utilities in the geographic area for similar service. Kansas G&E asserts that the rate increase is necessary due to rapidly escalating labor, material, and fuel costs and also to compensate the supplying party for the difficulties being incurred in obtaining and maintaining adequate fuel supplies.

Kansas G&E did not estimate total revenues to result from the proposed rate increase citing such an estimate to be impossible due to the nature of the service being offered.

Kansas G&E requests the Commission to waive the 30-day notice requirement and place the proposed service schedule into effect as of September 1, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before September 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22023 Filed 9-20-74;8:45 am]

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[Docket No. RP73-43]

## MID LOUISIANA GAS CO.

### Notice of Proposed Change in Rates

SEPTEMBER 17, 1974.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on August 9, 1974, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Substitute Eighth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G-1, SG-1 and I-1, to the effective date of August 1, 1974, pursuant to Commission order dated July 31, 1974 in the above-captioned docket. Mid Louisiana requests an effective date of August 1, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commision, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22029 Filed 9-20-74;8:45 am]

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[Docket No. RP72-149]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Proposed Change in Rates

SEPTEMBER 17, 1974.

Take notice that on August 19, 1974, Mississippi River Transmission Corporation (Mississippi) tendered for filing Twenty-first Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to become effective October 1, 1974.

Mississippi states that the instant filing was made pursuant to the purchased gas cost adjustment provisions of Mississippi's tariff in order to reflect a change in Mississippi's deferred cost adjustment pursuant to subparagraph 17.3 of Mississippi's tariff.

Mississippi further states that submitted schedules containing computations supporting the rate changes to be effective October 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1974. Protests will be considered by the Commission to determine appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22030 Filed 9-20-74;8:45 am]

[Docket No. RP74-35]

## NATIONAL FUEL GAS SUPPLY CORP.

### Proposed PGA Rate Adjustment

SEPTEMBER 17, 1974.

Take notice that on August 23, 1974, National Fuel Gas Supply Corporation (formerly United Natural Gas Company) (National), tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Tenth Revised Sheet No. 3-A to be effective September 1, 1974.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provision in section 16 of the General Terms and Conditions approved by the Commission's Order issued December 10, 1973, in Docket No. RP74-35. National further states that such tariff sheet reflects an adjustment in National's rates of .80¢ per Mcf on Tenth Revised Sheet No. 3-A.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22026 Filed 9-20-74;8:45 am]

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[Docket No. RP73-110]

## NATURAL GAS PIPELINE COMPANY OF AMERICA

### Rate Changes Pursuant to Settlement Agreement

SEPTEMBER 17, 1974.

Take notice that on July 17, 1974, Natural Gas Pipeline Company of America (Natural) tendered for filing Substitute Sixteenth Revised Sheet No. 5 of its FPC Gas Tariff, Third Revised Volume No. 1 to be effective September 1, 1974.

Natural states that the purpose of the filing is to give effect to a unit adjustment to reflect the cost of service effect for accordance with the provisions of Articles V, VIII, and XI of the proposed Stipulation and Agreement at Docket No. RP73-110 presently pending before the Commission. The Advance Payment balance as of July 15 has been adjusted to reflect the elimination of certain advances determined to be nonrecoverable for which Commission authorization to defer and amortize has been requested. A copy of this request, dated July 12, is enclosed including a schedule of the nonrecoverable advances.

Natural further states that it recognizes that the rate changes as filed will not become effective unless the Commission approves the proposed Stipulation and Agreement and that the filing was made to comply with the 45 day notice of rate change as required by the settlement agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure, (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22033 Filed 9-20-74;8:45 am]

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[Docket No. ID-1577]

## GUY W. NICHOLS

### Supplemental Application

SEPTEMBER 17, 1974.

Take notice that on August 26, 1974, Guy W. Nichols (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Director, Yankee Atomic Electric Company, Public Utility.

Yankee Atomic Electric Company is engaged in the generation and sale of electricity. The Company sells its entire net electrical output to its utility company stockholders.

Any person desiring to be heard or to make any protest with reference to said application, should on or before October 3, 1974, file with Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22046 Filed 9-20-74;8:45 am]

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[Docket No. CP75-74]

## NORTHWEST PIPELINE CORP.

### Notice of Application

SEPTEMBER 17, 1974.

Take notice that on September 3, 1974, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-74 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing a change in service to Southwest Gas Corporation (Southwest), all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Northwest proposes to sell and deliver a contract demand volume of 1,199,130 therms per day of natural gas to Southwest, pursuant to the terms and conditions of Northwest's FPC Gas Rate Schedule ODL-1, in lieu of Northwest's FPC Gas Rate Schedules PL-4 and PL-5. Northwest estimates that annual revenues will increase by approximately $276,000 to $366,000 due to this change in service.

Northwest states that as a result of the change in service, Southwest will be able to avail itself of a storage service provided by Northwest, pursuant to Northwest's FPC Rate Schedule SGS-1. Said storage service is only available to Northwest's customers purchasing gas pursuant to Rate Schedule ODL-1. Southwest has requested to receive storage service delivery of 7,971 Mcf per day of peak day volume and 282,200 Mcf of seasonal quantity, as set forth in Northwest's application in Docket No. CP75-18 for storage service pursuant to Rate Schedule SGS-1. Notice of the application in Docket No. CP75-18 was published in the FEDERAL REGISTER on August 15, 1974 (39 FR 29437).

Any person desiring to be heard or to make any protest with reference to said application should on or before October 8, 1974 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public con-

venience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22034 Filed 9-20-74;8:45 am]

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[Docket No. E-8159]

## PENNSYLVANIA POWER CO.

### Certification of Proposed Settlement Agreement

SEPTEMBER 17, 1974.

Take notice that on September 5, 1974, the Presiding Administrative Law Judge certified to the Commission a proposed settlement in the above-entitled proceeding, together with the entire record relating thereto. The settlement agreement, if approved, would resolve all rate and tariff issues pertaining to primary voltage service rendered by Pennsylvania to the customer-intervenors.

Any person wishing to do so may file comments concerning the proposed settlement agreement. All such comments should be submitted in writing to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 27, 1974. The Commission will consider all comments in determining the proper action to be taken.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22025 Filed 9-20-74;8:45 am]

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[Docket No. E-8878]

## POTOMAC EDISON CO.

### Order Accepting for Filing and Suspending Proposed Rate Increase, Instituting Investigation, Denying Motion To Reject, Permitting Intervention and Establishing Procedures; Correction

SEPTEMBER 10, 1974.

APPENDIX A

| *Designation* | *Description* |
|---|---|
| 1. Potomac Edison Co., First Revised Sheet No. 2, under FPC Electric Tariff Volume II (supersedes Original Sheet No. 2 under FPC Electric Tariff Volume II). | Preliminary statement, dated: June 28, 1974, filed: July 1, 1974, effective: May 31, 1974. |
| 2. Potomac Edison Co., First Revised Sheet No. 3, under FPC Electric Tariff Volume II (supersedes Original Sheet No. 3 under FPC Electric Tariff Volume II). | Map of company system, dated: June 28, 1974, filed: July 1, 1974, effective: May 31, 1974. |
| 3. Potomac Edison Co., Fifth Revised Sheet No. 8, under FPC Electric Tariff Volume II (supersedes Fourth Revised Sheet No. 8 under FPC Electric Tariff Volume II). | List of wholesale purchases under rate schedules, dated: June 28, 1974, filed: July 1, 1974, effective: May 31, 1974. |
| 4. Potomac Edison Co., supplement No. 2 to Rate Schedule FPC No. 35. | Other party: Borough of Chambersburg, Pa., dated: July 1, 1974, filed: July 1, 1974, effective: May 31, 1974. |
| 5. Potomac Edison Co., service agreement under FPC Electric Tariff Volume No. II (redesignation of service agreements of Potomac Edison Co. of Pennsylvania, FPC Electric Tariff Volume No. II). | Other party: Borough of Chambersburg, Pa. (school services), filed: Oct. 22, 1971, filed: Aug. 9, 1965, dated: Sept. 9, 1965. |
| 6. Potomac Edison Co. (same as No. 5 above). | Other party: Borough of Mount Alto, Pa., filed: Aug. 9, 1965, effective Sept. 9, 1965. |
| 7. Potomac Edison Co. (same as No. 5 above). | Other party: Metropolitan Edison Co., filed: Aug. 9, 1965, dated: Sept. 9, 1965. |
| 8. Potomac Edison Co., service agreement under FPC Electric Tariff Volume No. II (redesignation of service agreements of Potomac Edison Company of West Virginia, FPC Electric Tariff Volume No. II). | Other party: Shenandoah Valley Electric Cooperative (near Moorefield), filed: Aug. 9, 1965, dated: Sept. 9, 1965. |
| 9. Potomac Edison Co. (same as No. 8 above). | Other party: Shenandoah Valley Electric Cooperative (near Baker), filed: Aug. 9, 1965, dated: Sept. 9, 1965. |
| 10. Potomac Edison Co., Rate Schedule FPC No. 37, (redesignation of Potomac Edison of Virginia Rate Schedule FPC No. 12). | Other party: town of Front Royal, Va., filed: June 1, 1970, dated: Feb. 23, 1970. |
| 11. Potomac Edison Co., service agreement under FPC Electric Tariff Volume No. II (redesignation of Monterey Utilities Corporation Rate Schedule FPC No. 2). | Other party: BARC Electric Cooperative, filed: Mar. 27, 1972, dated: Oct. 29, 1971. |
| 12. Potomac Edison Co. of Pennsylvania, supplement No. 1 to FPC Electric Schedules Volume No. 2 (cancels Potomac Edison Co. of Pennsylvania FPC Electric Schedules Volume No. 2). | Notice of cancellation. Other party: Metropolitan Edison Co., borough of Mont Alto, Chambersburg, Pa., dated: June 26, 1974, filed: July 1, 1974, effective: May 31, 1974. |

APPENDIX A—*Continued*

| *Description* | *Designation* |
|---|---|
| 13. Potomac Edison Co. of Virginia supplement No. 1 to FPC Electric Schedules Volume No. 2 (cancels Potomac Edison Co. of Virginia FPC Electric Schedules Volume No. 2). | Notice of cancellation. Other party: Potomac Light & Power Co., dated: June 26, 1974, filed: July 1, 1974, effective: May 31, 1974. |
| 14. Potomac Edison Co. of West Virginia, supplement No. 1 to FPC Electric Schedules Volume No. 2 (cancels Potomac Edison Co. of West Virginia FPC Electric Schedules Volume No. 2). | Notice of cancellation. Other party: Northern Virginia Power Co., Shenandoah Valley Electric Cooperative, Monongahela Power Co., dated: June 26, 1974, filed: July 1, 1974, effective: May 31, 1974. |

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22048 Filed 9-20-74;8:45 am]

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[Docket No. RP73-49]

## SOUTH GEORGIA NATURAL GAS CO.

### Revision to Tariff

SEPTEMBER 17, 1974.

Take notice that on September 3, 1974, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of Original Volume No. 1 to its FPC Gas Tariff the following revised tariff sheets:

Ninth Revised Sheet No. 3A
Thirty-Fourth Revised Sheet No. 5
Thirty-Third Revised Sheet No. 6
Twenty-Fifth Revised Sheet No. 9
Twenty-Fourth Revised Sheet No. 11
Twenty-Eighth Revised Sheet No. 12B

South Georgia states that the above sheets represent a rate change under its PGA clause, such clause approved to become effective April 14, 1973, by Commission Order in FPC Docket No. RP73-49 issued April 13, 1973. The company further states that it proposes to decrease its rates $37,105 for the purpose of tracking a rate decrease filing by Southern Natural Gas Company (Southern) on August 27, 1974, which would decrease South Georgia's cost of gas $60,394 annually. An effective date of October 11, 1974 is requested.

South Georgia has requested waiver of the forty-five (45) day notice requirement as set forth in § 14.2(e) of the General Terms and Conditions of South Georgia's FPC Gas Tariff. South Georgia states that knowledge of Southern's filing, which South Georgia proposes to track, was not known to South Georgia until August 29, 1974 making it impossible for South Georgia to comply with the forty-five (45) day notice requirement.

South Georgia states that copies of this filing are being made available in the Company's office in Thomasville, Georgia, and are being mailed to purchasers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22024 Filed 9-20-74;8:45 am]

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[Docket No. E-9016]

## SOUTHWESTERN PUBLIC SERVICE CO.

### Notice of Cancellation

SEPTEMBER 17, 1974.

Take notice that on September 10, 1974, Southwestern Public Service Company (SWPSC) tendered for filing a notice of cancellation of an agreement entered into on January 4, 1971 by SWPSC and the Public Service Company of Oklahoma (PSCO) and filed with the Commission on August 30, 1971. The cancellation agreement between SWPSC and PSCO, effective August 9, 1974, cancels the obligation of SWPSC to furnish and the obligation of PSCO to take and pay for capacity and energy from a generating unit that was completed this year and another generating unit anticipated to be completed in 1976. The cancellation agreement also provides for PSCO to return energy, in a like amount, furnished it by SWPSC during June and July of 1974. SWPSC states that the cancellation of the service is due to supplier curtailments of gas fuel to SWPSC.

SWPSC further requests the Commission to cancel an earlier filed amendment to the cancelled agreement. That amendment was filed on February 11, 1974 and assigned Docket No. E-8623.

Notice of the proposed cancellation was served on PSCO and the Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before September 27, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22022 Filed 9-20-74;8:45 am]

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[Docket No. CP75-62]

## TENNECO INC.

### Notice of Application

SEPTEMBER 17, 1974.

Take notice that on August 30, 1974 Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP75-62 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to perform a limited-term service for Consolidated Edison Company of New York, Inc. (Con Ed), whereby Applicant will bank gas for Con Ed for the purpose of assisting Con Ed in meeting planned deliveries to the proposed Honeoye Storage Field (Honeoye) in Ontario County, New York, for base and top storage injections all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that Con Ed has advised Applicant that it wishes to release gas to Applicant to be banked until the summer of 1975, when Con Ed plans to use such volumes to assist it in meeting its planned deliveries to Honeoye, which will serve three New York City area utilities, Con Ed, The Brooklyn Union Gas Company, and Long Island Lighting Company. Applicant further states that Con Ed has advised it that such banking of natural gas will provide assurance of the availability of adequate volumes for Honeoye storage development in light of Con Ed's uncertainty as to total volumes to be available to it from all sources during 1975.

Applicant informs the Commission that Con Ed desires flexibility in this banking arrangement so as to assure adequate 1974–1975 winter season supplies of gas. To this end Con Ed desires the right to withdraw during the 1974–1975 winter up to one-half of the gas already banked with Applicant as of November 30, 1974,[1] and to restore any banked gas so withdrawn by further release of gas to Applicant during the 1974–1975 winter.

Accordingly, Applicant proposes to render the following natural gas service to Con Ed, pursuant to a letter agreement between the two parties, dated August 12, 1974:

(1) During the release period, from August 19, 1974, to March 31, 1975, Con Ed may nominate for release to Appli-

[1] Applicant has informed the Commission that it commenced the subject banking service on August 19, 1974, pursuant to § 157.22 of the Commission's regulations under the Natural Gas Act (18 CFR 157.22).

cant as banking gas daily volumes of natural gas of up to 30,600 Mcf, the maximum daily entitlement of Con Ed from Applicant under Rate Schedule CD–5; at no time shall the banked volume inventory exceed 2 million Mcf; and Con Ed shall pay Applicant as if the gas were delivered directly to Con Ed.

(2) During the winter period, from December 1, 1974, to March 31, 1975, Applicant, at its sole discretion, will deliver at an existing White Plains, New York, delivery point to Con Ed such volumes as Con Ed may request, not to exceed 20,000 Mcf per day and 1 million Mcf for the entire winter period, if the Con Ed banked inventory reaches 2 million Mcf by November 30, 1974, to be reduced proportionately if said inventory does not reach 2 million Mcf by November 30, 1974.

(3) During the summer period, from April 1, 1975, to October 31, 1975, Applicant, at its sole discretion, will deliver either to Honeoye Storage Field or to Con Ed at the White Plains delivery point volumes as Con Ed may request from its banked gas inventory, not to exceed 40,000 Mcf per day and not to exceed Con Ed's banked gas inventory as of April 1, 1975.

Con Ed, under the terms of the August 12, 1974, agreement, is to pay Applicant 74.32 cents per Mcf (1) for the volumes of banked gas delivered by Applicant to Con Ed during each month in the Winter period which exceed the volumes of natural gas accepted by Applicant for banking in each such month; (2) for the volumes of banked gas delivered by Applicant to Honeoye for the account of Con Ed or directly to Con Ed; and (3) for the remaining volumes of banked gas which have not been requested or taken by Con Ed through October 31, 1975.[2] The agreement of August 12, 1974, further provides for Con Ed to reimburse Applicant for all costs incurred by Applicant associated with the installation and removal of any additional necessary facilities, including measurement facilities, to interconnect the facilities of Applicant and Honeoye to provide the service to be performed by Applicant under the provisions of the agreement.

Applicant states that the proposed banking service can be rendered through presently existing facilities, that the service will not result in increased annual sales of gas and that Applicant's unused top storage capacity is sufficient to accommodate the 2 million Mcf of banked gas for Con Ed.

Any person desiring to be heard or to make any protest reference to said application should on or before October 7, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–22043 Filed 9–20–74;8:45 am]

[2] The excess volumes of banked gas accumulated by Applicant after October 31, 1975, shall be transferred to Con Ed's winter storage volumes to the extent such transfers can be accomplished without exceeding Con Ed's storage quantities. Applicant asserts that this application is not dependent upon receipt of authorization in Docket No. CP74–208 for operation of the Honeoye Storage Field, the application for which was noticed in the FEDERAL REGISTER on March 19, 1974 (39 FR 10318).

[Docket No. CP75–76]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Notice of Application

SEPTEMBER 17, 1974.

Take notice that on September 5, 1974, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP75–76 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as implemented by § 157.7(g) of the Commission's regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, for a twelve-month period commencing the date of authorization, and the operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" proposal is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

The total cost of the proposed facilities to be constructed hereunder and the abandonment of facilities will not exceed $2,000,000, with no single project to exceed $500,000. Applicant plans to finance these costs from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 8, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–22032 Filed 9–20–74;8:45 am]

[Docket No. ID–1741]

## JAMES E. TRIBBLE

### Initial Application

SEPTEMBER 17, 1974.

Take notice that on August 26, 1974, James E. Tribble (Applicant) filed an initial application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions:

Vice President and Director, Maine Yankee Atomic Power Company, Public Utility.
Vice President and Director, New England Power Company, Public Utility.
Director, Vermont Yankee Nuclear Power Corporation, Public Utility.

Maine Yankee Atomic Power Company is engaged in the generation and sale of electricity to other electric utilities.

New England Power Company is engaged in the generation, purchase, transmission, and sale of electricity at wholesale, principally to other utilities doing retail distribution.

Vermont Yankee Nuclear Power Corporation is the owner of a nuclear power plant in Vernon, Vermont, which went into commercial operation on November 30, 1972, and sells its entire net electrical output to its utility company stockholders.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22021 Filed 9-20-74;8:45 am]

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[Docket No. RP73-94]

## VALLEY GAS TRANSMISSION CO.

### Certification of Settlement Agreement

SEPTEMBER 17, 1974.

Take notice that on August 9, 1974, the Presiding Administrative Law Judge certified a Settlement Agreement (Settlement) in the above-captioned docket. The certification also states that appropriate testimony is also being certified to the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22028 Filed 9-20-74;8:45 am]

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[Docket No. ID-1684]

## DONALD E. VANDENBURGH

### Supplemental Application

SEPTEMBER 17, 1974.

Take notice that on August 26, 1974, Donald E. Vandenburgh (Applicant) filed a supplemental application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following position:

Vice President, Maine Yankee Atomic Power Company, Public Utility.

Maine Yankee Atomic Power Company is engaged in the generation and sale of electricity to other electric utilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22041 Filed 9-20-74;8:45 am]

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[Docket No. E-8746]

## VERMONT PUBLIC SERVICE BOARD AND POWER AUTHORITY OF THE STATE OF NEW YORK

### Extension of Procedural Dates

SEPTEMBER 16, 1974.

On September 6, 1974, Staff Counsel, acting for the Staff and the Counsel for the Vermont Public Service Board, the Power Authority of the State of New York, and the Allegheny Electric Cooperative, Inc., filed a motion to extend the procedural dates fixed by order issued August 23, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of testimony by State of Vermont Public Service Board, September 30, 1974.
Service of testimony by the Power Authority of the State of New York, Allegheny Electric Cooperative, Inc., and American Municipal Power-Ohio, Inc., October 14, 1974.
Staff testimony and rebuttal testimony of Vermont Public Service Board, October 25, 1974.
Cross examination to commence, November 6, 1974 (10 a.m. e.d.t.).

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.74-22045 Filed 9-20-74;8:45 am]

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[Docket No. E-9010]

## WEST PENN POWER CO.

### Tariff Change

SEPTEMBER 17, 1974.

Take notice that West Penn Power Company (West Penn) on September 6, 1974, tendered for filing FPC Electric Tariff, Volume No. 1 and Supplement No. 4 to Rate Schedule FPC Nos. 15 and 16. As filed, Volume No. 1 would cancel and supersede Rate Schedule FPC Nos. 15, 16, 29 and 30. West Penn states that the changes proposed by Volume No. 1 would produce an overall increase in revenues from jurisdictional sales and service of $326,967 based on the 12-month period ending December 31, 1973. The changes proposed by Supplement No. 4 provide for application of a fuel cost adjustment to the consumption billed under Rate Schedule FPC No. 15 and 16 and would result in an increase of $65,492 based on the 12-month period ending December 31, 1973.

West Penn asserts that the changes proposed are for the purpose of recovering increased costs incurred by the Company and to provide uniform application of the Company's fuel cost adjustment clause. West Penn has asked the Commission to waive the applicable notice requirements.[1] The Company asks that Supplement No. 4 be effective as of September 10, 1974, and that Volume No. 1 take effect January 1, 1975.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-22036 Filed 9-20-74;8:45 am]

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[1] 18 CFR 35.3(a).

[Docket No. E-8619]

## WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

### Extension of Procedural Dates

SEPTEMBER 16, 1974.

On September 11, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued April 19, 1974, as modified by notice issued August 9, 1974, in the above-designated matter. The motion is supported by the intervenors, and the company has no objections.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Evidence, December 6, 1974.
Service of Intervenor's Evidence, December 20, 1974.
Service of Rebuttal Evidence by Company, January 10, 1975.
Hearing, January 21, 1975 (10 a.m. e.d.t.).

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.74-22049 Filed 9-20-74;8:45 am]

# FEDERAL RESERVE SYSTEM

## AMERICAN CORP.

### Formation of Bank Holding Company

American Corporation, North Platte, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of an additional 57.6 per cent or more of the voting shares of American Security Bank, North Platte, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

American Corporation has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of American State Savings Company, North Platte, Nebraska and to continue to engage in insurance agency activities. Notice of the application was published on July 31, 1974, in the North Platte Telegraph, a newspaper circulated in North Platte, Nebraska.

Applicant states that the proposed subsidiary would engage in industrial banking. Applicant would continue to engage in insurance agency activities in connection with extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than October 14, 1974.

Board of Governors of the Federal Reserve System, September 16, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21929 Filed 9-20-74;8:45 am]

## ASSOCIATED BANK CORP.

### Order Approving Acquisition of Banks

Associated Bank Corporation, Iowa City, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval in three separate applications under section 3(a) of the Act (12 U.S.C. 1842(a)) to acquire 80 per cent or more of the voting shares of Hawkeye State Bank, Iowa City, Iowa ("Iowa City Bank"); First Trust & Union Savings Bank, Sigourney, Iowa ("Sigourney Bank"); and Kalona Savings Bank, Kalona, Iowa ("Kalona Bank").[1]

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant presently controls two banks with aggregate deposits of approximately $36 million, representing 0.4 per cent of the total commercial bank deposits in Iowa, and is the forty-fifth largest banking organization in the State. (All banking data are as of December 31, 1973, and reflect holding company formations and acquisitions approved through August 31, 1974.) The acquisition of Iowa City Bank ($13 milliion deposits), Sigourney Bank ($11 million deposits), and Kalona Bank ($11 million deposits) would increase Applicant's share of commercial bank deposits in Iowa by 0.3 of 1 per cent, and Applicant would become the fifteenth largest banking organization in the State.

Each of the three proposals represents Applicant's initial entry into the respective market area of the banks involved. Applicant's closest banking office to any of the banks proposed to be acquired is separated by a distance of approximately 32 miles. Iowa City Bank and Kalona Bank, which is located 17 miles from the Iowa City Bank, each serve the Iowa City banking market and together hold 10.5 per cent of total market deposits. Sigourney Bank is the smaller of two banks headquartered in the town of Sigourney (population of approximately 2300) and is the third largest of nine banks in the Sigourney banking market, approximated by Keokuk County, with about 16 per cent of the market's total deposits. No appreciable amount of deposits and loans are derived by Iowa City Bank, Kalona Bank, or Sigourney Bank from the other's respective service areas nor from the areas served by Applicant's present subsidiaries. Thus, it appears there is no meaningful present competition between any of Applicant's present banks with any of the three proposed subsidiary banks, nor among the banks to be acquired. Moreover, Applicant's acquisition of three banks would not result in Applicant attaining a dominant position in either the Iowa City or Sigourney's banking markets. Furthermore, in view of distances separating the banks involved, the number of intervening banking offices, and common ownership existing between the banks to be acquired and Applicant's principals, it appears there is little likelihood of competition developing in the future. Accordingly, the Board concludes that competitive considerations are consistent with approval of the applications.

The financial and managerial resources and prospects of Applicant and the three proposed subsidiaries appear to be generally satisfactory and consistent with approval of the applications, especially in view of Applicant's commitments to augment the capital positions of its present and proposed subsidiaries. Applicant plans no immediate change in services for the three proposed subsidiaries, but proposes to develop trust services, improve present computer services, and institute programs for the recruitment, training, allocation and retention of capable personnel. Considerations relating to the convenience and needs of the communities served by the proposed subsidiary banks are consistent with, and lend some weight toward, approval of the applications. It is the Board's judgment that consummation of the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order nor (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Fed-

[1] Control of the three proposed subsidiary banks is now held by six shareholders (principals of Applicant) through individual ownership in the case of the Iowa City Bank and, in the cases of the Sigourney and Kalona banks, by means of two one-bank holding companies.

eral Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 16, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21927 Filed 9-20-74;8:45 am]

## FINANCIAL SERVICES HOLDING CORP.

### Formation of Bank Holding Company

Financial Services Holding Corporation, Wichita, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 60.83 per cent or more of the voting shares of Seneca State Bank, Wichita, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Financial Services Holding Corporation has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire certain assets of Harrison Insurance Center, Inc., Wichita, Kansas. Notice of the application was published on July 31, 1974, in The Daily Record, a newspaper circulated in Wichita, Kansas.

Applicant states that the proposed subsidiary would engage in the sale of credit life, credit accident and health, and single interest insurance. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1974.

Board of Governors of the Federal Reserve System, September 16, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21933 Filed 9-20-74;8:45 am]

## MICHIGAN FINANCIAL CORP.

### Order Approving Acquisition of Bank

Michigan Financial Corporation, Marquette, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Ironwood, Ironwood, Michigan ("Bank"). The bank into which Bank is to be marged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired. The Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the tenth largest multibank holding company and the 27th largest commercial banking organization in Michigan, controls six banks with aggregate deposits of $145 million, representing 0.5 percent of total deposits held by commercial banks in the State.[1] Acquisition of Bank (deposits of $19.1 million) would increase Applicant's share of commercial bank deposits in the State by one-tenth of one percentage point and would not result in any significant increase in the concentration of banking resources in Michigan.

Bank, the largest of six commercial banks located in the relevant banking market (approximated by Gogebic County, Michigan and western Ontonagon County in Wisconsin, holds about 29 percent of the total commercial bank deposits in the market. Applicant's nearest subsidiary bank is located 120 miles east of Bank. No competition exists between Bank and any of Applicant's subsidiary banks and, due to the distances involved and the fact that the intervening areas are sparsely populated, it is unlikely that any will develop in the near future. The present economic character of the market and Michigan's restrictive branching laws make conditions for *de novo* entry appear unfavorable. The Board concludes therefore, that consummation of the proposed acquisition would not have significantly adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are regarded as satisfactory, particularly in view of Applicant's commitment to inject equity capital into three of Applicant's subsidiary banks. Applicant's affiliation with Bank should enable Bank to expand the range of banking services offered. Therefore, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 16, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21926 Filed 9-20-74;8:45 am]

## MITSUI BANK, LTD.

### Order Approving Formation of Bank Holding Company

The Mitsui Bank, Ltd., Tokyo, Japan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of The Mitsui Bank of California, Los Angeles, California ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a Japanese commercial bank with total assets of approximately $19.6 billion and total deposits of approximately $13 billion,[1] is the eighth largest commercial bank in Japan. Applicant has 147 banking offices located through-

[3] Voting for this action: Vice-Chairman Mitchell and Governors Sheehan, Holland, and Wallich. Absent and not voting: Chairman Burns and Governor Bucher.

[1] Banking data are as of December 31, 1973, adjusted to reflect holding company formations and acquisitions approved through July 31, 1974.

[2] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Holland, and Wallich. Absent and not voting: Chairman Burns and Governor Bucher.

[1] All banking and financial data for Applicant are as of September 30, 1973.

out Japan, and it also has 12 overseas offices,[2] including an agency in Los Angeles and an agency in New York City.

Bank proposes to offer a full range of retail and wholesale banking services in the Los Angeles area, but would primarily be a wholesale bank specializing in the financing of trade between Japan and the United States. Applicant has one office in Los Angeles, but that office is an agency and is not authorized to accept deposits. Bank is expected to compete primarily with other banks in California that are controlled by Japanese banks, and, to some extent, with the larger California banks having international banking capabilities. Of the five banks in California that are presently controlled by Japanese banks, The Mitsubishi Bank of California and The Tokai Bank of California are headquartered in Los Angeles. The Bank of Tokyo of California, The Sumitomo Bank of California and The Sanwa Bank of California are all headquartered in San Francisco.[3] Based on the record before it, the Board concludes that Bank's entry into the Los Angeles area will have no adverse effects on existing or potential competition, nor would it have a significant effect on the concentration of banking resources in any relevant area. Rather, the addition of Bank will provide increased banking facilities and competition.

The financial and managerial resources and future prospects of Applicant and Bank are regarded as satisfactory and consistent with approval. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval, due to the addition to the Los Angeles area of a new bank and another international banking link to Japan.

In the light of the purpose of the Bank Holding Company Act to maintain the separation of banking from commerce in the United States, the Board has given special attention in this application and in previous bank holding company applications by Japanese commercial banks,[4] to the relationships that Japanese banks are permitted to have with industrial or commercial companies under the laws of Japan. A study of the relationships indicates that, in general, Applicant and other of the large Japanese commercial banks are linked in a group with their major Japanese customers through interlocking stock ownership and that the members of these groups tend to act in concert. In particular, these groups include among their members companies that do business in the United States, notably, major trading companies accounting for a significant percentage of Japan's exports and imports to and from the United States.

The Board has examined the facts submitted to it in connection with the present application with a view to determining whether Applicant exercises control or a controlling influence over the management or policies of any of the companies closely associated with Applicant through interlocking stock ownership or whether any of such companies exercises control or a controlling influence over the management or policies of Applicant.

Based on the Board's evaluation of the facts submitted in connection with the present application and giving due consideration to the specific assurances given by Applicant that no control exists, by agreement or otherwise, between Applicant and those of its customers that are among the group of companies closely associated with Applicant through interlocking stock ownership, the Board has concluded that at this time Applicant should not be regarded as having control or exerting a controlling influence over, or as being subject to the control or controlling influence of any of such customers and that the group does not constitute a "company" within the meaning of section 2(b) of the Bank Holding Company Act.

It is the Board's judgment that the application should be approved. However, the Board will review regularly the operations of Bank and Applicant's other banking agencies in this country with a view toward ascertaining whether the relationships between them and other companies in Applicant's group remain consistent with the purposes of section 4 of the Bank Holding Company Act and the Board's regulations thereunder.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after that date, and (c) The Mitsui Bank of California, Los Angeles, California, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[5] effective September 13, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21930 Filed 9-20-74;8:45 am]

## OSKALOOSA BANCSHARES, INC.

### Formation of Bank Holding Company

Oskaloosa Bancshares, Inc., Oskaloosa, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company through acquisition of 81.5 per cent or more of the voting shares of The State Bank of Oskaloosa, Oskaloosa, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

Oskaloosa Bancshares, Inc., Oskaloosa, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Curtis Patrick Agency, Oskaloosa, Kansas. Notice of the application was published on August 22, 1974, in the Oskaloosa Independent, a newspaper circulated in Jefferson County, Kansas.

Applicant states that the proposed subsidiary would engage in the following activities: sale of credit life and credit accident and health insurance directly related to extensions of credit by The State Bank of Oskaloosa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Gov-

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[2] At the time of its original application to acquire Bank, Applicant owned 15 per cent of the shares of City Bank, a State-chartered bank in Honolulu, Hawaii, and also had a director interlock with such bank. In conformity with the provisions of section 3(d) of the Act, Applicant has subsequently modified its proposal by reducing its share ownership in City Bank to 4.9 per cent and by terminating its director interlock with such bank.

[3] Each of these banks, however, does have branches in Los Angeles.

[4] Board Orders of December 1, 1971 approving the applications of The Dai-Ichi Kangyo Bank, Ltd., The Mitsubishi Bank Ltd., and The Sanwa Bank, Ltd., all of Japan, to become bank holding companies (58 Federal Reserve Bulletin 49–51).

[5] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, and Wallich.

ernors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1974.

Board of Governors of the Federal Reserve System, September 16, 1974.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.74-21928 Filed 9-20-74;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### EXECUTIVE BRANCH POSITION

#### Commission on Government Procurement Recommendations

Notice is given that an executive branch position has been reached on the following Commission on Government Procurement (COGP) recommendations:

I. *Recommendation D-2.* Provide a positive means for users to communicate satisfaction with their support system as a method of evaluating its effectiveness and ensuring user confidence.

*Executive Branch Position.* This recommendation has been accepted. Implementation will be accomplished by a Federal Management Circular to be issued by GSA.

II. *Recommendation I-2.* Enact legislation to make clear the authority of all agencies to issue exclusive licenses under patents held by them.

*Executive Branch Position.* The recommendation has been accepted. The Federal Council for Science and Technology will be assigned responsibility for drafting appropriate legislation with due consideration given to current litigation on the subject of exclusive licensing.

III. *Recommendation I-3.* Supplement the Presidential policy by the adoption of uniform procedures for application of the rights reserved to the Government under the policy.

*Executive Branch Position.* The recommendation has been accepted. Responsibility for implementation has been assigned to the Federal Council for Science and Technology (FCST). Suitable implementing action(s) will be determined by the Council on the basis of results obtained in a study recently conducted by the Committee on Government Patent Policy.

IV. *Recommendation I-4.* Amend 28 U.S.C. 1498 to make authorization and consent automatic in all cases except where an agency expressly withholds its authorization and consent as to a specific patent.

*Executive Branch Position.* The recommendation has been rejected. The Executive Subcommittee of the Committee on Government Patent Policy concluded that areas of contractor uncertainty largely arise under contracts where only a limited authorization and consent is generally granted by the Government or where a contract is silent on authorization and consent. While recognizing that certain benefits could stem from adopting this recommendation, they found that areas of contractor uncertainty were relatively few or largely avoidable by improved administrative practices.

The Executive Subcommittee has been assigned the task of undertaking a review of agency authorization and consent practices to determine where contractor uncertainties can be corrected by administrative action.

V. *Recommendation I-5.* Amend agency regulations and clauses to provide that all contractual warranties against patent infringement be provided by specific contractual language and not by implication.

*Executive Branch Position.* The recommendation has been accepted and will be implemented by appropriate regulations in the Armed Services and Federal Procurement Regulations.

VI. *Recommendations I-6 and I-7. I-6.* Authorize all agencies to settle patent infringement claims out of available appropriations prior to the filing of suit.

*I-7.* Grant all agencies express statutory authority to acquire patents, applications for patents, and licenses or other interests thereunder.

*Executive Branch Position.* The recommendations have been accepted. Implementation action has been assigned to the Federal Council for Science and Technology (FCST) and will be accomplished by legislation as proposed in sections 6 and 7 of the Draft Bill in Appendix B to Part I of the COGP Report, with concomitant repeal of all existing individual agency authorizing legislation as proposed in section 8 of the Draft Bill.

VII. *Recommendation I-8.* Give the United States District Courts concurrent jurisdiction with the Court of Claims for suits brought pursuant to 28 U.S.C. 1498 subject to the dollar levels set forth under the Tucker Act.

*Executive branch position.* The recommendation has been rejected. The Executive Subcommittee of the Committee on Government Patent Policy concluded that although the objective of reducing a patent claimant's litigation expenses is meritorious, its achievement by adoption of the recommendation is doubtful. Instead of providing additional avenues of judicial relief to gain the stated objective, the Executive Subcommittee found that the objective may be better achieved by providing for effective administrative consideration of patent claims by all executive agencies.

VIII. *Recommendations I-9, I-10 and I-12. I-9.* Amend or repeal statutes limiting agency flexibility concerning rights in technical data.

*I-10.* Undertake, through the Federal Council for Science and Technology, in coordination with the Office of Federal Procurement Policy, to develop and evaluate the implementation of a statement of Government policy on rights in technical data supplied under Government contracts. Give specific consideration to the relationships between prime contractors and subcontractors.

*I-12.* Undertake, through the Federal Council for Science and Technology, in coordination with the Office of Federal Procurement Policy, to develop and evaluate the implementation of a statement of Government policy on the treatment of data submitted with proposals or other related communications.

*Executive Branch Position.* These recommendations have been accepted. The Federal Council for Science and Technology has been assigned the responsibility for conducting the requisite study which will be the basis for the Council to develop a Government policy on rights in technical data supplied under Government contracts and the treatment of data submitted with proposals or other related communications. While conducting this study, the Council will also consider the aspects of COGP Recommendation I-9; i.e., draft any necessary amendments or repealers of statutes which are identified as limiting agency flexibility concerning rights in technical data.

IX. *Recommendation I-11.* Authorize agencies to acquire information and data.

*Executive Branch Position.* The recommendation has been accepted. The Federal Council for Science and Technology will be assigned the responsibility for drafting appropriate legislation.

Dated at Washington, DC on September 13, 1974.

R. E. ZECHMAN,
*Associate Administrator for Federal Management Policy.*

[FR Doc.74-21939 Filed 9-20-74;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ESTABLISHMENT OF ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

#### Notice of Determination

Pursuant to the Federal Advisory Committee Act, P.L. 92-463, it is hereby determined that the establishment of an Advisory Panel on Science Education Projects, as hereinafter identified, is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9. (a) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. *Name of panel.* Advisory Panel on Science Education Projects.

2. *Purpose.* To provide a forum for the exchange of information relating to the Foundation's support in the field of science education and, in the process, to provide recommendations on ways to improve the efforts of the Foundation in support of science education. Also, the Panel will identify new directions and possible future trends in innovative science education and provide a mechanism for the review and evaluation of specific proposals, projects, and applications via peer review.

3. *Effective date of establishment and duration.* The Panel is established effective 15 days after publication of this notice; and its duration shall be two years from the effective date.

4. *Membership.* The membership of the Panel shall be fluid, depending upon the scope of the Panel's particular meet-

ing. The Panel shall be comprised of current and previous NSF grantees whose projects are or have been supported through the Foundation's Directorate for Education. Membership shall also consist of other individuals from the scientific community with expertise in science education. Representation will be sought from a broad spectrum in the community of science education to provide a fair balance in terms of the points of view represented and the function of the particular meeting. There will be no discrimination on the basis of race, color, national origin, religion, or sex.

5. *Committee operation.* The Panel will operate in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, Foundation policy and procedures, OMB Circular No. A–63, Revised, and other directives and instructions issued in implementation of the Act.

H. GUYFORD STEVER,
*Director.*

[FR Doc.74–21968 Filed 9–20–74;8:45 am]

## NATIONAL TRANSPORTATION SAFETY BOARD

### RAILROAD FIRE AT WENATCHEE, WASH.

#### Hearing

In the Matter of the Investigation of the Explosion and Fire of a Tank Car in Apple Yard of the Burlington Northern in Wenatchee, Washington on August 6, 1974 Resulting in Several Fatalities and Numerous Injuries.

Notice is hereby given that an Accident Investigation Hearing on the above matter be held commencing at 9 a.m., P.S.T. on Tuesday, September 24, 1974, in the Thunderbird Motor Inn, 1225 N. Wenatchee Avenue, Wenatchee, Washington.

Dated this 29th day of August 1974.

For the board.

ISABEL A. BURGESS,
*Chairman, Board of Inquiry.*

[FR Doc.74–22172 Filed 9–20–74;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 18, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service: Study of Price and Volume Effects of Retail Meat Specialing, Form ____, Weekly, Raynsford (395–3814), Retail grocery chain division.

ENVIRONMENTAL PROTECTION AGENCY

Survey of Participants in Water Workshops: Form ____, Single time, NRD (395–6827), Weiner (395–4890), Individuals.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Industry Wage Survey: Contract Construction Pilot Study, Form BLS 3054, Single time, Strasser (395–3880), Construction contractors.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Instructions for the Preparation of an Application for an Education Project Grant, Form ____, Occasional, Lowry (395–3772), Colleges, universities, schools.

REVISIONS

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration: Regulations under Packers and Stockyards Act Form ____, Occasional, Lowry (395–3772), Meat packers.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration:
Annual Report of Auction Markets and Commisison Firms (Livestock), Form PSA 130, 126, Annual, Evinger (395–3648), Auction markets.
Annual Report of Dealers and Commission Market Agencies (Livestock), Forms PSA 124, 124–1, Annual, Evinger (395–3648), Livestock dealers or market agencies.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.74–22161 Filed 9–20–74;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[811–1907]

### CAPITAL FUND FOR FIDUCIARIES, INC.

#### Filing of Application

SEPTEMBER 17, 1974.

Notice is hereby given that Capital Fund For Fiduciaries, Inc. ("Applicant"), 30 Wall Street, New York, New York 10005, registered under the Investment Company Act of 1940 (the "Act") as a non-diversified, closed-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Delaware corporation on July 16, 1969. On July 18, 1969, Applicant registered under the Act by filing a Form N–8A Notification of Registration. Concurrently, Applicant filed a Form N–8B–1 Registration Statement under the Act and a Form S–5 Registration under the Securities Act of 1933.

Applicant states that on April 15, 1974 Applicant's Board of Directors unanimously voted in favor of a proposal to dissolve Applicant and wind up its business and that after receiving notice of this action, all but one of Applicant's shareholders redeemed their shares of Capital Stock of Applicant at prices equal to the net asset value of such shares. Applicant states that on July 25, 1974 the sole remaining shareholder of Applicant consented to the dissolution and liquidation of Applicant and thereupon redeemed its shares of Capital Stock of Applicant. Applicant represents that a Certificate of Dissolution was filed with the Secretary of State of Delaware, and that it no longer continues the business for which it was organized but rather intends that its existence shall be terminated subject to final settlement of its affairs pursuant to the General Corporation Law of the State of Delaware.

Applicant states that it has now distributed to its shareholders all of its assets except for the sum of $5,000, representing a reserve established for the purpose of meeting expenses of dissolution and winding up. Applicant asserts that any assets remaining after payment of all such expenses will be distributed pro rata to shareholders of record of Applicant on April 15, 1974, or that any expenses in excess of $5,000 will be borne by Applicant's investment adviser, Brokaw, Shaenen, Clancy Management Co., Inc.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 15, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attor-

ney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 15, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–21947 Filed 9–20–74;8:45 am]

[811–2437]

## CHANNING SECURITIES, INC.

### Filing of Application

SEPTEMBER 17, 1974.

Notice is hereby given that Channing Securities, Inc. ("Applicant"), 280 Park Avenue, New York, New York 10017, a Maryland corporation registered as a diversified, open-end, management investment company under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Porteous Growth Fund, Inc. ("Growth Fund"), a diversified, open-end, management investment company registered under the Act, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

On August 1, 1960, Growth Fund filed a Notification of Registration pursuant to section 8(a) of the Act and Registration Statements pursuant to section 8(b) of the Act and section 5 of the Securities Act of 1933 ("1933 Act"). Applicant's Registration Statement under the 1933 Act became effective on July 14, 1972. At a special meeting of shareholders of Growth Fund held on June 28, 1974, shareholders voted to merge Growth Fund into Applicant pursuant to a Plan and Articles of Merger, dated April 19, 1974, by which the outstanding shares of Growth Fund were converted into shares of Channing American Fund (one of two separate classes of stock of Channing Securities, Inc.). Thereupon the corporate existence of Growth Fund ceased and all its assets and liabilities were transferred by operation of law to Applicant.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 16, 1974, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–21948 Filed 9–20–74;8:45 am]

[70–5541]

## PUBLIC SERVICE COMPANY OF OKLAHOMA AND CENTRAL AND SOUTH WEST CORP.

### Filing of Application

SEPTEMBER 17, 1974.

Notice is hereby given that Central and South West Corporation ("Central"), 300 Delaware Avenue, Wilmington, Delaware 19899, a registered holding company, and its electric utility subsidiary, Public Service Company of Oklahoma ("Public Service"), P.O. Box 201, Tulsa, Oklahoma 74102, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50(a)(4) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Public Service proposes to enter into a loan agreement with the Small Business Administration of the United States ("the SBA") for the purpose of borrowing $1,000,000 for repairs and replacements to its property damaged by numerous tornadoes on June 8, 1974. The proposed borrowing by Public Service will be represented by a promissory note payable to the SBA, maturing in 20 years (or such lesser period as the SBA approves) and bearing interest at 5 percent, to be paid ratably semi-annually over the life of the note. As further security for the SBA loan, Central proposes to guarantee payment of the note of Public Service.

The entire proceeds realized from the proposed borrowing will be used by Public Service to finance replacements and repairs to its property and equipment.

The fees and expenses to be paid by Public Service in connection with the transactions are estimated to total $2,800, including legal fees of $700. It is stated that the Corporation Commission of Oklahoma and the SBA has jurisdiction over the issuance of the note by the Company and that no other state commission or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 9, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–21950 Filed 9–20–74;8:45 am]

[812–3679]

## UNITED BENEFIT LIFE INSURANCE CO. AND UNITED BENEFIT VARIABLE FUND B

### Filing of Application

SEPTEMBER 17, 1974.

Notice is hereby given that United Benefit Variable Fund B ("Fund B"), 3316 Farnam Street, Omaha, Nebraska

68131, which is a diversified, open-end, management investment company registered under the Investment Company Act of 1940 (the "Act") and United Benefit Life Insurance Company ("United"); a Nebraska stock insurance corporation, (together hereinafter called the "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 27(a)(3) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Fund B was established by United pursuant to Nebraska Insurance Law on April 28, 1970 as a "separate account," as defined in Rule 0–1(e) promulgated under the Act, so that it might serve as a facility for the public offering of variable annuity contracts in connection with individual and group retirement plans qualifying for special tax treatment under relevant provisions of the Internal Revenue Code. The contracts relevant to this application are the Group Variable Annuity Contracts—section 401(a) and section 403(a) Corporate Pension Programs ("Corporate Contracts") which are specifically designed to provide retirement payments for plans established by corporations or trusts entitled to the benefits of section 401(a) and 403(a) of the Internal Revenue Code. Deposits by contract owners are allocated to Fund B, after certain deductions, and then invested, primarily in common stock, although at least 25 percent is invested in fixed income securities.

The proposed amount of sales load deduction from contributions received under a Corporate Contract during each contract year is as follows:

| *Contributions received during contract year* | *Deduction (as Percent of contributions)* |
|---|---|
| First $25,000 | 6 |
| Next $10,000 | 4 |
| Next $15,000 | 3 |
| Excess over $50,000 | 2 |

Section 27(a)(3) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of sales load deducted from any one of the first 12 monthly payments exceeds proportionately the amount deducted from any other such payment or if the amount of sales load deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment.

Rule 27a–2 provides, in pertinent part, that a registered separate account shall be exempt from section 27(a)(3) provided that the proportionate amount of sales load deducted from any payment during the contract period does not exceed the proportionate amount deducted from any prior payment during the contract period.

Applicants state that under the proposed schedule of sales deductions it is possible that the percentage of sales load deducted from contributions made in any contract year after the first year could be higher than the percentage deducted from contributions made in any previous contract year. For example, if first contract year contributions were $30,000, the applicable sales load would be 6 percent on the first $25,000 and 4 percent on the remaining $5,000. However, second contract year contributions of only $25,000 would be subject to a sales load deduction of 6 percent. Therefore, applicants contend that an increase in the level of sales load might occur during the term of the Corporate Contract that Rule 27a–2 would not be applicable and that the uniformity of deduction provisions of section 27(a)(3) would be violated.

Applicants request an exemption from section 27(a)(3) of the Act to permit the proposed schedule of sales load deductions or any similar schedule under which the percentage amount of sales load deducted from contributions under Corporate Contract issued by Fund B may decrease within a contract year as a result of discounts based on the quantity of contributions made during a contract year, provided that the percentage of sales load deducted will not exceed 9 percent.

Section 6(c) of the Act permits the Commission, upon application, to grant an exemption from any provision of the Act if it finds that any exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that section 27(a)(3) of the Act was designed to lessen losses which might be incurred upon early termination of periodic payment plan certificates involving front end load arrangements. Applicants state that its proposed sales deduction schedule does not involve a front-end load arrangement. In no event will the sales load deducted on any payment under the Corporate Contracts be in excess of the statutory limitation of 9 percent. Applicants therefore represent that the schedule they propose cannot lead to the abuses intended to be curbed by section 27(a)(3).

Notice is further given that any interested person may, not later than October 17, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 17, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74–21946 Filed 9–20–74;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[V–73–25]

### STAR TEXTILE AND RESEARCH, INC.

### Grant of Variance; Correction

In FR Doc. 74–20772 of the issue for September 10, 1974 (39 FR 32670), the paragraph entitled "Effective date" on page 32671 should be corrected to read as follows:

*Effective date.* This order shall become effective on September 10, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, DC. this 18th day of September, 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74–21987 Filed 9–20–74;8:45 am]

[V–73–35]

### UNITED VIRGINIA BANKSHARES, INC.

### Grant of Variance; Correction

In FR Doc. 74–20773, appearing at page 32671 of the issue for September 10, 1974, the paragraph entitled "Effective date" should be corrected to read as follows:

*Effective date.* This order shall become effective on September 10, 1974, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 18th day of September, 1974.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.74–21988 Filed 9–20–74;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 595]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 18, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only

once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 130219, Fred M. Wolf, dba The Merry-Go-Around, now assigned October 22, 1974, will be held in Room 395, U.S. Courthouse & Federal Bldg., 550 W. Fort St., Boise, Idaho.

MC 134599 Sub 97, Interstate Contract Carrier Corp., now assigned October 1, 1974, at Boston, Mass., is cancelled and application dismissed.

AB-77, Bangor and Aroostook Railroad Co., Abandonment Between Monticello and Bridgewater, Aroostook County, Maine, now assigned October 7, 1974, at Houlton, Maine, postponed to October 30, 1974 (2 days), Gentle Bldg., Recreation Center, Main Street, Houlton, Maine.

MC 136903 Sub 7, Intermodal Transport, Inc., now assigned October 9, 1974, at Atlanta, Ga., is cancelled and application dismissed.

MC 115841 Sub 466, Colonial Refrigerated Transportation, Inc., now being assigned hearing November 12, 1974 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC 116014 Sub 66, Oliver Trucking Company, Inc., now being assigned hearing November 14, 1974 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC-F-11986, Ligon Specialized Hauler, Inc.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, MC-F-11987, Oliver Trucking Company, Inc.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, MC-F-11988, O'Nan Transportation Co., Inc.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, MC 133916, O'Nan Transportation Co., Inc., and MC-F-11989, Cecil O'Nan, Dba O'Nan Transfer Co.—Purchase (Portion)—Webb Transfer Line, Inc., John C. Ryan, Trustee, now being assigned hearing November 18, 1974 (1 week), at Louisville, Ky., in a hearing room to be later designated.

MC-C-8338, Hunt Truck Lines, Inc.—Investigation and Revocation of Certificate, now assigned October 21, 1974, at Kansas City, Mo., is postponed indefinitely.

MC 124174 Sub 98, Momsen Trucking Co., now assigned November 7, 1974, at Kansas City, Mo., is cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.74-22061 Filed 9-20-74;8:45 am]

[Notice 160]

## MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 23, 1974.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75399. By application filed September 13, 1974, CITIZEN EXPRESS, INC., P.O. Box 2215, Asheville, N.C. 28802, and MEDIA EXPRESS, INC., P.O. Box 1145, Charlotte, N.C. 28231, seeks authority to temporarily lease the operating rights of CAROLINA DELIVERY SERVICE COMPANY, INC., P.O. Box 2215, Charlotte, N.C. 28231, under section 210a(b). The transfer to CITIZEN EXPRESS, INC., and MEDIA EXPRESS, INC., of the operating rights of CAROLINA DELIVERY SERVICE COMPANY, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.74-22062 Filed 9-20-74;8:45 am]

## IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY
### Elimination of Gateway Letter Notices

SEPTEMBER 18, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 3, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 504 (Sub-No. E10) (Correction), filed May 24, 1974, published in the FEDERAL REGISTER August 28, 1974. Applicant: HARPER MOTOR LINES, P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: * * * (3) *Cotton and cotton goods*, from points in South Carolina on and south of U.S. Highway 1, extending from North Augusta, S.C., to Columbia, S.C., thence along U.S. Highway 378 to Conway, S.C., thence along U.S. Highway 501 to Myrtle Beach, S.C., to points in Virginia (except points west of U.S. Highway 220). The purpose of this filing is to eliminate the gateway of Sanford, N.C. The purpose of this partial correction is to correct U.S. Highway 220. The remainder of the letter-notice remains as previously published.

No. MC 2368 (Sub-No. E65) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER September 4, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 11th St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in North Carolina, Tennessee, and South Carolina to Pawtucket, R.I. The purpose of this filing is to eliminate the gateway of Richmond, Va., and Suffolk, Va. The purpose of this correction is to set forth Pawtucket, R.I., as the destination point.

No. MC 2368 (Sub-No. E78) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER September 5, 1974. Applicant: BRALLEY-WILLETT TANK LINES, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: Wilmer B. Hill, 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (except liquid cocoa butter), in bulk, in tank vehicles, from points in Virginia on, east, and north of a line beginning at the Virginia-District of Columbia line and extending along U.S. Highway 1 to Richmond, Va., thence along Interstate Highway 64 to its junction with Interstate Highway 264, thence along Interstate Highway 264 to the Atlantic Ocean, to that part of North Carolina on and west of U.S. Highway 29. The purpose of this filing is to eliminate the gateway of Richmond, Va. The purpose of this correction is to set forth the destination territory.

No. MC 51018 (Sub-No. E9), filed May 31, 1974. Applicant: BESL TRANSFER CO., 5550 Este Ave., Cincinnati, Ohio 45232. Applicant's representative: Raymond A. Besl (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of their size or weight require the use of special equipment, (2) *Self-propelled articles*, each weighing 15,000 pounds or more (restricted to commodities which are transported on trailers), and (3) *related machinery, tools, parts, and supplies*, moving in connection with the commodities described in (2) above, between points in that part of Ohio on, south, and west of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 40 to junction Ohio Highway 235, thence along Ohio Highway 235 to Zenia, thence along U.S. Highway 35 to Washington Court House, thence along Ohio Highway 41 to Locust Grove, thence along Ohio Highway 73 to Portsmouth, thence along Ohio 140 to junction Ohio Highway 93, thence along Ohio Highway 93 to Oak Hill, thence along Ohio Highway 279 to junction U.S. Highway 35, thence along U.S. Highway 35 to Gallipolis, on the one hand, and, on the other, points in Michigan. The purpose of this filing is to eliminate the gateway of points in that part of Ohio on and south of Interstate Highway 70 and on and west of Interstate Highway 75.

No. MC 51018 (Sub-No. E10), filed May 31, 1974. Applicant: BESL TRANS-

FER CO., 5550 Este Ave., Cincinnati, Ohio 45232. Applicant's representative: Raymond A. Besl (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of their size or weight require the use of special equipment, (2) *Self-Propelled articles*, each weighing 15,000 pounds or more (restricted to commodities which are transported on trailers), and (3) *Related machinery, tools, parts, and supplies*, moving in connection with the commodities described in (2) above, between points in Missouri, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of points in that part of Ohio on and south of Interstate Highway 70 and on and west of Interstate Highway 75.

No. MC 51018 (Sub-No. E11), filed May 31, 1974. Applicant: BESL TRANSFER CO., 5550 Este Ave., Cincinnati, Ohio 45232. Applicant's representative: Raymond A. Besl (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of their size or weight require the use of special equipment, (2) *Self-propelled articles*, each weighing 15,000 pounds or more (restricted to commodities which are transported on trailers), and (3) *related machinery, tools, parts, and supplies*, moving in connection with the commodities described in (2) above, between points in that part of Ohio on, south, and west of a line beginning at the Ohio-Indiana State line, thence along U.S. Highway 30 to Delphos, thence along U.S. Highway 30S to Kenton, thence along Ohio Highway 31 to Marysville, thence along Ohio Highway 38 to Washington Court House, thence along U.S. Highway 62 to Hillsboro, thence along Ohio Highway 247 to Wrightsville, on the one hand, and, on the other, points in that part of Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 15 to Duncannon, thence along Pennsylvania Highway 274 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to Gettysburg, thence along U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of points in that part of Ohio on and south of Interstate Highway 70 and on and west of Interstate Highway 75.

No. MC 59150 (Sub-No. E8), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies* used in the installation of building, wall, or insulating boards, from points in Columbia, Gilchrist, Alachua, Levy, Marion, Citrus, Sumter, Hernando, Pasco, Pindlas, Monroe, Collier, Hillsborough, Polk, Manatee, Hardee, Highlands, Okeechobee, Dade, Broward, Sarasota, DeSoto, Charlotte, Glades, Lee, Hendry, and Palm Beach Counties, Fla., to points in that part of North Carolina north of Carteret, Onslow, Pender, Bladen, Robeson, and Scotland Counties. The purpose of this filing is to eliminate the gateway of the plant site of Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E9), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies* used in the installation of building, wall, or insulating boards, from points in Florida in and west of Madison and Taylor Counties, to points in North Carolina. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E10), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies* used in the installation of building, wall, or insulating boards, from points in that part of Florida in and west of Holmes, Washington, and Bay Counties, to points in Charleston, Allendale, Hampton, Jasper, Beaufort, Colleton, and Dorchester Counties, S.C. The purpose of this filing is to eliminate the gateway of the plant site of Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E11), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and material and supplies* used in the installation of building, wall, or insulating boards, from points in that part of Florida in and west of Madison and Taylor Counties, to points in that part of South Carolina in and north of Barnwell, Bamberg, Orangeburg, Dorchester, Berkeley, and Georgetown Counties. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E12), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require the use of specialized handling or rigging, between points in Louisiana, on the one hand, and, on the other, points in that part of Georgia in and south of Stewart, Webster, Schley, Macon, Peach, Bibb, Jones, Baldwin, Hancock, Glascock, Jefferson, and Richmond Counties. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 59150 (Sub-No. E22), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight, require specialized handling or rigging, between points in that part of Mississippi in and south of Adams, Franklin, Lincoln, Lawrence, Jefferson Davis, Covington, Jones, and Wayne Counties, on the one hand, and, on the other, points in that part of Georgia in and south of Muskogee, Marion, Taylor, Crawford, Bibb, Jones, Baldwin, Hancock, Warren, Chattahoochee, McDuffie, and Columbia Counties. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 59150 (Sub-No. E23), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require specialized handling or rigging, between points in that part of Mississippi in and south of Wilkinson, Amite, Pike, Walthall, Marion, Lamar, Forrest, Perry, and Greene Counties, on the one hand, and, on the other, points in that part of Georgia in and south of Heard, Coweta, Fulton, Gwinnett, Barrow, Clarke, Oglethorpe, Wilkes, Oconee, and Lincoln Counties. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 59150 (Sub-No. E24), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require the use of specialized handling or rigging, between points in Hancock, Harrison, and Jackson Counties, on the one hand, and, on the other, points in that part of Georgia on in and south of Floyd, Gordon, Gilmer, Union, Towns, and Rabun Counties. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 59150 (Sub-No. E25), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require specialized handling or rigging, between points in that part of Louisiana in and south of Beauregard, Allen, Evangeline, St. Landry, St. Martin, Iberville, West Baton Bouge, East Baton Rouge, Livingston, St. John the Baptist, Jefferson, Orleans, and St. Bernard Counties, on the one hand, and, on the other, points in that part of Georgia in and south of Floyd, Gordon, Pickens, Dawson, Lumpkin, White, Habersham, and Stephens Counties. The purpose of this filing is to eliminate the gateway of points in Florida.

No. MC 59150 (Sub-No. E27), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* used as building or construction materials, building contractor's machinery and equipment, or agricultural implements; and (2) *Gypsum products* and *commodities* used in connection with the erection of gypsum products when moving in the same vehicle and at the same time as gypsum products, from points in Nassau, Duval, Clay, Putnam, Volusia, Lake, Orange, Osceola, Okeechobee, Highlands, Glades, Lee, St. Johns, Flagler, Seminole, Brevard, Indian River, and St. Lucie Counties, Fla., to points in that part of Alabama in and north of Franklin, Lawrence, Morgan, Marshall, Etowah, Calhoun, and Cleburne Counties. The purpose of this filing is to eliminate the gateway of Savannah, Ga.

No. MC 59150 (Sub-No. E28), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* used as building and construction materials, agricultural implements, or building contractor's machinery and equipment; and (2) *Gypsum products* and *commodities* used in connection with the erection of gypsum products when moving in the same vehicle and at the same time as gypsum products, from points in Palm Beach, Hendry, Collier, Monroe, Broward, and Dade Counties, Fla., to points in that part of Alabama in and north of Sumter, Greene, Tuscaloosa, Jefferson, St. Clair, Calhoun, and Cleburne Counties. The purpose of this filing is to eliminate the gateway of Savannah, Ga.

No. MC 59150 (Sub-No. E29), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, 1907 Hill Street, Jacksonville, Florida 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* used as building and construction materials, agricultural implements, or building contractor's machinery and equipment; and (2) *Building material* (except liquid commodities in bulk and cement, except in mixed loads with building materials), from points in that part of Florida in and east of Hamilton, Suwannee, Lafayette, and Dixie Counties, to points in that part of South Carolina in and east of York, Chester, Fairfield, Richland, Lexington, and Aiken Counties. The purpose of this filing is to eliminate the gateway of points in Chatham County, Ga.

No. MC 59150 (Sub-No. E30), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Florida 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, used as building and construction materials, agricultural implements, or building contractor's machinery and equipment; and (2) *Building materials* (except liquid commodities in bulk and cement, except in mixed loads with building materials), (A) from points in those parts of Hamilton, Suwannee, Lafayette, Dixie, Columbus, Baker, Union, Bradford, Alachua, Levy, Gilchrist, Citrus, Pinellas, and Marion Counties, Fla., west of U.S. Highway 301, and points in those parts of Sumter, Hernando, and Pasco Counties, Fla., west of Interstate Highway 75, to points in that part of Tennessee in and east of Claiborne, Union, Knox, Loudon, Monroe, and Polk Counties; and (B) from points in that part of Florida east of a line beginning at the Florida-Georgia State line, thence along the Baker County-Druvall County line to junction U.S. Highway 301, thence along U.S. Highway 301 to junction Interstate Highway 75, thence along Interstate Highway 75 to Tampa, to points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Chatham County, Ga.

No. MC 59150 (Sub-No. E31), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Florida 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* used as building and construction materials, agricultural implements, or building contractor's machinery and equipment; and (2) *Building materials* (except liquid commodities in bulk and cement, except in mixed loads with building materials), from points in that part of Florida in and east of Jefferson County, to points in that part of North Carolina in and east of Surry, Yadkin, Iredell, Mecklenburg, and Union Counties. The purpose of this filing is to eliminate the gateway of points in Chatham County, Ga.

No. MC 59150 (Sub-No. E32), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from points in that part of Florida in and west of Leon and Wakulla Counties, to points in that part of North Carolina in and west of Alleghany, Wilkes, Alexander, Catawba, Lincoln, and Gaston Counties, and points in that part of South Carolina in and west of Cherokee, Union, Newberry, Saluda, and Edgefield Counties. The purpose of this filing is to eliminate the gateway of the plant site of Panel Products Company at or near Lithonia, Ga.

No. MC 59150 (Sub-No. E33), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Florida 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from points in that part of Florida in and east of Jackson, Washington, and Bay Counties, to points in that part of Tennessee in and east of Sumner, Wilson, Cannon, Coffee, Bedford, and Lincoln Counties. The purpose of this filing is to eliminate the gateway of the plantsite of Panel Products Company at or near Lithonia, Ga.

No. MC 59150 (Sub-No. E34), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Florida 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Florida 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing and asphalt roofing materials, gypsum and gypsum products, composition boards, insulator materials, urethane and urethane products, and related materials, supplies and accessories* incidental thereto (except commodities in bulk), from the plantsite of Celotex Corporation at Birmingham, Ala., to points in that part of Florida in and east of Holmes, Washington, and Bay Counties. The purpose of this filing is to eliminate the gateway of points in Georgia.

No. MC 59150 (Sub-No. E35), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common*

*carrier*, by motor vehicle,over irregular routes, transporting: *Plywood and composition boards and sheets*, from the plant site and storage facilities of Westvaco Corporation of North Charleston, S.C., to points in that part of Tennessee in and west of Pickett, Fentress, Morgan, Roane, Loudon, Monroe, and Polk Counties. The purpose of this filing is to eliminate the gateway of points in Chatham County, Ga.

No. MC 59150 (Sub-No. E36), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition boards, insulation materials, and related materials, supplies, and accessories* incidental thereto (except commodities in bulk), from the plant site of the Celotex Corporation at Birmingham, Ala., to points in that part of Virginia, in and east of Loudoun, Fauquier, Rappahannock, Madison, Greene, Albermarle, Nelson, Amherst, Campbell, Pittsylvania, Franklin, and Patrick Counties. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E37), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard*, from the plant site of Evans Products Company at or near Moncure, N.C., to points in Mississippi and Louisiana. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E38), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and moldings, and other accessories* used in the installation of plywood, when moving at the same time and in the same vehicle with plywood, from the plant site of Vancouver Plywood Company at Charlotte, N.C., to points in Louisiana. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E39), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies* used in the installation of building, wall, or insulating boards, from points in that part of Florida in, east, and south of Columbia, Alachua, Marion, and Citrus Counties, to points in that part of Alabama in and north of Pickens, Tuscaloosa, Jefferson, Shelby, Talladega, Clay, and Randolph Counties. The purpose of this filing is to eliminate the gateway of the plant site of the Armstrong Cork Company at Macon, Ga.

No. MC 59150 (Sub-No. E40), filed May 28, 1974. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, Fla. 32202. Applicant's representative: J. Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, or insulating boards, and materials and supplies* used in the installation of building, wall, or insulating boards, from points in Florida in, east, and south of Columbia, Alachua, Marion, and Citrus Counties, to points in Louisiana in and north of Vernon, Rapeds, Avoyelles, and Concordia Counties. The purpose of this filing is to eliminate the gateway of the plant site of Armstrong Cork Company at Macon, Ga.

No. MC 69833 (Sub-No. E1), filed June 1, 1974. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlad (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metals* used in manufacturing, *metal products in bulk, and heavy constructions, excavating, and mill machinery* (a) between points in Michigan in and north and west of Van Buren, Kalamazoo Barry, Ionia, Montcalm Isabella, and Midland Counties and south of a line from Lake Huron along Michigan Highway 247 (formerly Michigan Highway 47) to Bay City thence along unnumbered highway (formerly Michigan Highway 20) to the junction of Business U.S. Highway 10 (formerly Michigan Highway 20) to the junction of Michigan Highway 20, thence along Michigan Highway 20 to Muskegon on the one hand, and, on the other, points in Ohio in and east of Lake, Geauga, Summit, and Stark Counties and on and north of a line from the western boundary of Stark County along U.S. Highway 62 to the junction of U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State line (points in Wayne County, Mich.)*, (b) between points in Michigan in, north and west of Ottawa, Kent, Ionia, Montcalm, Isabella, and Midland Counties and south of a line from Lake Highway 247 (formerly Michigan Highway 47) to Bay City, thence along unnumbered highway (formerly Michigan Highway 20) to the junction of Michigan Highway 20, thence along Michigan Highway 20 to Muskegon on the one hand, and, on the other, points in Ohio in and east of Lucas, Wood, Hancock, Hardin, Logan, Champaign, and Clark Counties and on and north of a line from the Clark-Greene County line along U.S. 42 to London, thence along Ohio Highway 142 to West Jefferson, thence along U.S. Highway 40 to Columbus, thence along U.S. Highway 62 to Canton, thence along U.S. Highway 30 to the West Virginia-Ohio State line (points in Wayne County, Mich.)*. (2) *Sheet and coil steel*, in bulk, and in containers, (a) from points in the Ohio portion of the Portsmouth, Ohio Commercial Zone, as defined by the Commission to points in Michigan in and north and west of Ottawa, Kent, Ionia, Montcalm, Isabella, and Midland Counties and south of a line from Lake Huron along Michigan Highway 247 (formerly Michigan Highway 47) to Bay City, thence along unnumbered highway (formerly Michigan Highway 20) to the junction of Michigan Highway 20, thence along Michigan Highway 20 to Muskegon (Marysville, Dayton or Toledo, Ohio)*, (b) from points in the Ohio portion of the Portsmouth Ohio Commercial Zone as defined by the Commission to points in Michigan in, east, and south of Branch, Calhoun, Eaton, Clinton, Gratiot, Midland, and Bay Counties. (Marysville, Dayton, or Toledo, Ohio)*. The purpose of the filing is to eliminate the gateways marked with asterisks above.

No. MC 95540 (Sub-No. E443) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER, August 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in South Carolina on, east and south of a line beginning at North Augusta and extending along U.S. Highway 25 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to its junction with U.S. Highway 1, thence along U.S. Highway 1 to the North Carolina-South Carolina State line, to points in Oregon. The purpose of this filing is to eliminate the gateways of Jacksonville, Fla., and Gulfport, Miss. The purpose of this correction is to reflect points in Oregon as the destination territory.

No. MC 95540 (Sub-No. E565) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER August 27, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in New Mexico on and south of a line beginning at the New Mexico-Texas State line and extending along U.S. Highway 60 to Clovis, thence along U.S. Highway 60/84 to its junction with U.S. Highway 285, thence along U.S. Highway 285 to its junction

with Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line, to points in Virginia. The purpose of this filing is to eliminate the gateway of Dothan, Ala. The purpose of this correction is to correct the gateway.

No. MC 95540 (Sub-No. E661) (correction), filed May 11, 1974, published in the FEDERAL REGISTER, August 29, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Fresh and frozen fruits and vegetables*, in vehicles equipped with mechanical refrigeration, from points in Texas on and south of a line beginning at the Texas-Louisiana State line extending along U.S. Highway 80 to Dallas; thence Interstate Highway 35 to junction with U.S. Highway 380; thence along U.S. Highway 380 to its junction with U.S. Highway 287; thence along U.S. Highway 287 to Amarillo; thence along Interstate Highway 40 the Texas-New Mexico State line, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of points in Florida. The purpose of this correction is to correct U.S. Highway 287.

No. MC 104210 (Sub-No. E1), filed May 14, 1974. Applicant: TRANSPORT COMPANY, INC., P.O. Box 4726, Corpus Christi, Tex. 78404. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petrochemicals*, in bulk, in tank vehicles, from points in Texas within 125 miles of Delmita, Tex., including Delmita to Oklahoma City, Okla., and Baton Rouge, Lake Charles, and New Orleans, La. The purpose of this filing is to eliminate the gateway of Bishop, Tex.

No. MC 107678 (Sub-No. E7), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, Bank of The Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, (except the stringing and picking up of pipe in connection with the construction and dismantling of pipelines), between points in Oklahoma, on the one hand, and, on the other, points in North Dakota, on and west of North Dakota Highway 30 and in South Dakota west of the Missouri River and on and north of U.S. Highway 14. The purpose of this filing is to eliminate the gateways of points in the State of Texas.

No. MC 110420 (Sub-No. E26), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible animal oils* (except lard, tallow, and grease, (1) from Waterloo, Cedar Rapids, and Des Moines, Iowa and Cudahy, Wis., to points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey (except points in the New York, N.Y., and Philadelphia, Pa.), commercial zones (Chicago, Ill.) *; and (2) from Louisville, Ky., to points in Maine and New Hampshire (points in Indiana within the Chicago, Ill., commercial zone) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110420 (Sub-No. E31), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow*, in bulk, in tank vehicles, from points in St. Joseph County, Ind., to points in Minnesota, Wisconsin, Iowa, Nebraska, Missouri, Illinois, Tennessee, the Upper Peninsula of Michigan McCracken County, Ky., and to Charlotte, N.C. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 110420 (Sub-No. E32), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow*, in bulk, in tank vehicles, from points in Milwaukee County, Wis., to Lititz, Pa., and Charlotte, N.C., and points in Kentucky, Delaware, and Tennessee. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 110420 (Sub-No. E70), filed June 24, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid edible chocolate and cocoa butter coating compounds*, in bulk, in tank vehicles, from Chicago, Ill., to Denver, Colo. (Cincinnati, Ohio) *. (2) *Liquid chocolate*, in bulk, in tank vehicles, from Chicago, Ill., to Minneapolis, Minn., Omaha, Nebr., and Sioux Falls, S. Dak. (Milwaukee, Wis.) *. (3) *Liquid chocolate*, in bulk, in tank vehicles, from Chicago, Ill., to Denver, Colo., Boston and North Abington, Mass., New York, N.Y., Fargo, N. Dak., and points in that part of Alabama on and south of U.S. Highway 80, that part of Georgia on and south of U.S. Highway 29, that part of North Carolina on and east of U.S. Highway 29, that part of South Carolina on and south of U.S. Highway 29, and that part of Pennsylvania in Wayne, Pike, Monroe, Northampton, Bucks, Montgomery, Chester, Philadelphia, and Delaware Counties, and to Allentown, Pa. (Milwaukee, Wis.) *. (4) *Liquid chocolate and liquid cocoa butter*, in bulk, in tank vehicles, from Chicago, Ill., to points in Kansas, Louisiana, Texas, Oklahoma, California, Colorado, Minnesota, Nebraska, New Jersey, North Dakota, South Dakota, Utah, that part of Arkansas on and south of a line beginning at the Arkansas-Mississippi State line, thence along Arkansas Highway 4 to junction Arkansas Highway 8, thence along Arkansas Highway 8 to the Arkansas-Texas State line, that part of New York on and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 11 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 13, thence along New York Highway 13 to Lake Ontario, that part of Iowa on and north of Iowa Highway 3, that part of North Carolina on and each of U.S. Highway 29, that part of South Carolina on and east of U.S. Highway 29, that part of Virginia on and east of U.S. Highway 29, and in and east of Wayne, Monroe, Northampton, Bucks, Chester, and Montgomery Counties, and to Allentown, Pa. (Milwaukee, Wis.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110420 (Sub-No. E72), filed June 4, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: E. Stephen Heisley, 666 11th St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chocolate*, from Boston, Mass., to Grand Forks, N. Dak., Denver, Colo., and points in and southwest of St. Joseph, Allegan, and Kalamazoo Counties, Mich., the Upper Peninsula of Michigan, Missouri, Texas, Louisiana, Minnesota, and Iowa (Chicago, Ill.) *. (2) *Liquid chocolate and liquid cocoa butter*, in bulk, in tank vehicles, from Boston, Mass., to St. Paul, Minn., St. Joseph, and Joplin, Mo., Lincoln and Omaha, Nebr., Memphis, Tenn., Waco, Tex., Madison, and Milwaukee, Wis. (Chicago, Ill.) *. (3) *Chocolate and chocolate coating*, from points in Boston, Mass., to points in South Dakota (Chicago, Ill.) *. (4) *Liquid chocolate and chocolate coating*, in bulk, in tank vehicles, from Boston, Mass., to points in that part of Indiana in and west of Elkhart, Kosciusko, Wabash, Grant, Madison, Hancock, Shelby, Bartholomew, Brown, Monroe, Lawrence, Orange, DuBois, and Spencer Counties, and that part of Kentucky on and west of U.S. Highway 431 (points in Indiana within the Chicago, Ill., commercial zone) *. (5)

*Liquid chocolate and liquid cocoa butter*, in bulk, in tank vehicles, from Boston, Mass., to points in Oklahoma, Texas, and California (Chicago, Ill., and Milwaukee, Wis.)*. (6) *Liquid chocolate and liquid chocolate products*, from Boston, Mass., to points in Colorado, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and points in that part of Illinois in and north of Randolph, Perry, Franklin, Hamilton, and White Counties (Chicago, Ill., and Milwaukee, Wis.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E619) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 19, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Rhode Island to points in that part of Pennsylvania on and west of Pennsylvania Highway 191. The purpose of this filing is to eliminate the gateway of Carteret, N.J. The purpose of this correction is to set forth the route number in Pennsylvaina.

No. MC–110525 (Sub-No. E629) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials, hydrofluosilicic acid, such naval stores as are chemicals, crude tall oil, sulphate, black liquor skimmings, and liquid alum), in bulk, in tank vehicles, from points in that part of South Carolina on and north of a line beginning at the Georgia-South Carolina State line, thence along Interstate Highway 20 to Columbia, thence along U.S. Highway 378 to the Atlantic Ocean, to points in that part of Alabama on and west of Interstate Highway 65. The purpose of this filing is to eliminate the gateway of Atlanta, Ga. The purpose of this correction is to correct typographical errors.

No. MC 110525 (Sub-No. E672) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 19, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677, (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Tennessee on and east of U.S. Highway 27 to points in Alabama. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn. The purpose of this correction is to expand the origin territory.

No. MC 110525 (Sub-No. E695) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Tennessee on and east of U.S. Highway 27, to points in South Dakota. The purpose of this filing is to eliminate the gateways of Copperhill, Tenn., and Addyston, Ohio. The purpose of this correction is to expand the origin territory.

No. MC 110525 (Sub-No. E697) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Tennessee on and east of U.S. Highway 27 to points in that part of Utah on and west of U.S. Highway 89. The purpose of this filing is to eliminate the gateways of Copperhill, Tenn., and Addyston, Ohio. The purpose of this correction is to expand the territorial descriptions.

No. MC 110525 (Sub-No. E719) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials, hydrofluodilic acid, such naval stores as are chemicals, crude tall oil, sulphate, black liquor skimmings, and liquid alum), in bulk, in tank vehicles, from points in that part of West Virginia on and north of a line beginning at the West Virginia-Kentucky State line, thence along Interstate Highway 64 to Charleston, thence along Interstate Highway 77 to the West Virginia-Virginia State line, to points in Mississippi. The purpose of this filing is to eliminate the gateway of Atlanta, Ga. The purpose of this correction is to set forth the correct origin State.

No. MC 110525 (Sub-No. E724) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 26, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Virginia on and south of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 501 to South Boston, thence along U.S. Highway 15/360 to Richmond, thence along U.S. Highway 60 to Newport News, thence along U.S. Highway 17 to the Virginia-North Carolina State line, to points in Delaware. The purpose of this filing is to eliminate the gateway of Hopewell, Va. The purpose of this correction is to set forth the correct origin territory.

No. MC 110525 (Sub-No. E746) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 27, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Virginia on and east of U.S. Highway 21 to points in Ohio. The purpose of this filing is to eliminate the gateway of Institute, W. Va. The purpose of this correction is to reflect the correct route description in Virginia.

No. MC 110525 (Sub-No. E747) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 27, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Virginia on and east of U.S. Highway 21 to points in Oklahoma. The purpose of this filing is to eliminate the gateways of Point Pleasant, W. Va., and Addyston, Ohio. The purpose of this correction is to reflect the correct route description in Virginia.

No. MC 110525 (Sub-No. E752) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER August 27, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Virginia on and east of U.S. Highway 21 to points in that part of Tennessee on and west of U.S. Highway 27. The purpose of this filing is to eliminate the gateway of Twin Oaks, N.C. The purpose of this correction is to redescribe the territorial description in Tennessee.

No. MC 110525 (Sub-No. E969), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box

200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic materials* (except coal tar derivatives), in bulk, in tank or hopper-type vehicles, from Kobuta, Pa., (1) to points in Connecticut, Massachusetts, and Rhode Island (Newark, N.J.) *, (2) to points in Maine (except points in Aroostook County), New Hampshire, and Vermont (Newark, N.J., and Springfield, Mass.) *, and (3) to points in Delaware (points in that part of New Jersey located in the New York, N.Y., commercial zone, restricted in (2) above to the transportation of such dry plastic materials as are dry chemicals. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1044), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry urea*, in bulk, in tank vehicles, from the plantsite of American Cyanamid Company, at Avondale, La., to points in Colorado, Wyoming, Arizona, California, and Utah. The purpose of this filing is to eliminate the gateway of Texas City, Tex.

No. MC 110525 (Sub-No. E1043), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum wax*, in bulk, in tank vehicles, from Baton Rouge, La., to points in California. The purpose of this filing is to eliminate the gateway of Houston, Tex.

No. MC 110525 (Sub-No. E1042), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten dimethyl terephthalate*, in bulk, in tank vehicles, from Old Hickory, Tenn., (1) to points in Connecticut, Massachusetts, and Rhode Island (Brevard and Greensboro, N.C., and Newark, N.J.) *, (2) to points in Maine, New Hampshire, and Vermont (Brevard and Greensboro, N.C., and Syracuse, N.Y.) *, and (3) to points in South Carolina, that part of North Carolina on and east of U.S. Highway 441, and that part of Virginia on and east of U.S. Highway 52 (Brevard, N.C.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1045), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plant site of American Cyanamid Company at Avondale, La., (1) to points in Virginia (Ranger, N.C.) *, (2) to points in New Mexico, Arizona, California, Colorado, Nebraska, and Wyoming, (Beaumont, Tex.) *, and (3) to points in Utah (Texas City, Tex.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1046), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry caprolactum*, in bulk, from points in Richmond County, Ga., to points in Vermont, Maine (except points in Aroostook County), Connecticut, and Rhode Island. The purpose of this filing is to eliminate the gateway of Springfield, Mass.

No. MC 110525 (Sub-No. E1047), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Carpentersville, Ill., (1) to points in Massachusetts, Connecticut, Rhode Island, and Delaware (Newark, N.J.) *, and (2) to points in that part of Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Pennsylvania Highway 10 to Reading, thence along U.S. Highway 222 to Allentown, thence along the Pennsylvania Turnpike, Northeast Extension, to Seronton, thence along U.S. Highway 6 to the Pennsylvania-New York State line (Somerville, N.J.) *. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1048), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Terephthalic acid*, in bulk, from the plantsite of Amoco Chemicals Corporation at or near Decatur, Ala., (1) to points in that part of Florida on and east of a line beginning at the Alabama-Florida State line, thence along U.S. Highway 27 to junction U.S. Highway 319, thence along U.S. Highway 319 to the Gulf of Mexico (Atlanta, Ga.) *, (2) to points in New York and that part of Michigan on and east of U.S. Highway 23 (Akron, Ohio) *, (3) to points in Maine, Vermont, Massachusetts, and New Hampshire (Akron, Ohio, and Solvay, N.Y.) *, (4) to points in Delaware, Maryland, New Jersey, and Pennsylvania (Cincinnati, Ohio) *, and (5) to points in Connecticut and Rhode Island (Cincinnati, Ohio, and Newark, N.J.) *, restricted in (1) and (4) above to the transportation of traffic in tank or hopper-type vehicles, restricted in (2) and (3) above to the transportation of traffic in tank vehicles and restricted in (3) and (4) above to the transportation of dry terephthalic acid. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. 1050), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sulphate*, in bulk, in tank vehicles, from Naheola, Ala., to points in North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of points in Georgia.

No. MC 110525 (Sub-No. E1051), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except those sold for use as fertilizers), in bulk, in tank vehicles, from the plantsite of Hooker Chemical Corporation at or near Taft, St. Charles Parish, La., to points in Indiana, Ohio, and that part of Illinois on, north, and east of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 136 to junction Illinois Highway 29, thence along Illinois Highway 29 to Peoria, thence along Illinois Highway 88 to the Illinois-Iowa State line, restricted to the transportation of liquid chemicals to points in Butler, Hamilton, Lake, Mahoning, Trumbull, and Wayne Counties, Ohio. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC 110525 (Sub-No. E1052), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except those derived from petroleum, fertilizer, and fertilizer ingredients), in bulk, in tank vehicles, from Vicksburg, Miss., (1) to points in North Carolina and Virginia (points in Georgia) *, (2) to points in that part of Florida on and east of U.S. Highway 319 and on and south of U.S. Highway 90 (Columbus, Ga.) *, and (3) to points in that part of Ohio on and east of a line beginning at the Kentucky-Ohio State line, thence along U.S. Highway 68 to Findlay, thence along U.S.

Highway 25 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Michigan State line (Ashland, Ky.)*, restricted in (1) above against the transportation of bituminous products and materials. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1053), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as described in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677 (except liquefied petroleum gases), in bulk, in tank vehicles, in foreign commerce only, from points in Harris and Jefferson Counties, Tex., to those ports of entry on the International Boundary line between the United States and Canada located on the Niagara River. The purpose of this filing is to eliminate the gateways of points in West Virginia and Niagara Falls, N.Y.

No. MC 11–525 (Sub-No. E1054), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as described in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677 (except liquefied petroleum gases), in bulk, in tank vehicles, from points in Harris and Jefferson Counties, Tex., (1) to points in Ohio and Michigan (Louisville, Ky.)*, (2) to points in Maryland, New York, and Pennsylvania (Institute, W. Va.)*, (3) to points in Maine, New Hampshire, and Vermont (Institute, W. Va., and Syracuse, N.Y.)*, (4) to points in Delaware and New Jersey (Greensboro, N.C.)*, (5) to points in Connecticut, Massachusetts, and Rhode Island (Greensboro, N.C., and Newark, N.J.)*, and (6) to the District of Columbia (Hopewell, Va.)*, restricted in (3) above against the transportation of liquid oxygen, liquid hydrogen, and liquid nitrogen to points in Vermont. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1057), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Freeport, Tex., (1) to Charlotte, N.C., and points within 5 miles thereof (Tuscaloosa, Ala.)*, (2) to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line (Copperhill, Tenn.)*, (3) to points in Maryland, New Jersey, Pennsylvania, and New York (except points in Nassau, Queens, and Suffolk Counties) (Copperhill, Tenn., and Fernald, Ohio)*, (4) to points in Connecticut, Massachusetts, and Rhode Island (Copperhill, Tenn., Fernald, Ohio, and Newark, N.J.)*, (5) to points in Maine, New Hampshire, and Vermont (Copperhill, Tenn., Fernald, Ohio, and Solvay, N.Y.)*, and (6) to points in South Carolina and that part of North Carolina on and east of U.S. Highway 441 (Augusta, Ga.)*, restricted in (1) above against the transportation of derivatives of petroleum or bituminous materials and restricted in (5) above against the transportation of calcium chloride, and against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1058), filed May 20, 1974. Applicant: CHEMICAL LEAMANT TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from North Seadrift, Tex., (1) to Charlotte, N.C., and points within 5 miles thereof (Tuscaloosa, Ala.)*, (2) to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line (Copperhill, Tenn.)*, (3) to points in Maryland, New Jersey, Pennsylvania, and New York (except points in Nassau, Queens, and Suffolk Counties) (Copperhill, Tenn., and Fernald, Ohio)*, (4) to points in Connecticut, Massachusetts, and Rhode Island (Copperhill, Tenn., Fernald, Ohio, and Newark, N.J.)*, (5) to points in Maine, New Hampshire, and Vermont (Copperhill, Tenn., Fernald, Ohio, and Solvay, N.Y.)*, and (6) to points in South Carolina and that part of North Carolina on and east of U.S. Highway 441 (Augusta, Ga.)*, restricted in (1) above against the transportation of derivatives of petroleum or bituminous materials, and restricted in (5) above against the transportation of calcium chloride and against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1059), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank vehicles, from Texas City, Tex., (1) to Charlotte, N.C., and points within 5 miles thereof (Tuscaloosa, Ala.)*, (2) to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Indiana State line, (Copperhill, Tenn.)*, (3) to points in Maryland, New Jersey, Pennsylvania, and New York (except points in Nassau, Queens, and Suffolk Counties) (Copperhill, Tenn., and Fernald, Ohio)*, (4) to points in Connecticut, Massachusetts, and Rhode Island (Copperhill, Tenn., Fernald, Ohio, and Newark, N.J.)*, (5) to points in Maine, New Hampshire, and Vermont (Copperhill, Tenn., Fernald, Ohio, and Solvay, N.Y.)*, and (6) to points in South Carolina and that part of North Carolina on and east of U.S. Highway 441 (Augusta, Ga.)*, restricted in (1) above against the transportation of derivatives of petroleum or bituminous materials, and restricted in (5) above against the transportation of calcium chloride and against the transportation of shipments originating at or destined to points in Canada. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1060), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from Texas City, Tex., (1) to points in North Carolina, South Carolina, Virginia, and West Virginia (points in Georgia or that part of Tennessee on and east of U.S. Highway 27)*, (2) to points in Maryland, Pennsylvania, and New York (Knoxville, Tenn., and Institute, W. Va.)*, (3) to points in Delaware and New Jersey (Atlanta, Ga., and Greensboro, N.C.)*, (4) to the District of Columbia (Atlanta, Ga., and Hopewell, Va.)*, (5) to points in Connecticut, Massachusetts, and Rhode Island (Atlanta, Ga., Greensboro, N.C., and Newark, N.J.)*, (6) to points in Maine, New Hampshire, and Vermont (Knoxville, Tenn., Institute, W. Va., and Syracuse, N.Y.)*, (7) to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 63, thence along Kentucky Highway 63 to Glasgow, thence along Interstate Highway 65 to the Kentucky-Indiana State line (Copperhill, Tenn.)*, and (8) to points in Michigan and that part of Indiana on and east of a line beginning at the Michigan-Indiana State line, thence along U.S. Highway 31 to Kokomo, thence along U.S. Highway 35 to the Indiana-Ohio State line (Copperhill, Tenn., and Louisville, Ky.)*, restricted in (6) above against the transportation

of liquid oxygen, liquid hydrogen, and liquid nitrogen, to points in Vermont. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1061), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from North Seadrift, Tex., (1) to points in North Carolina, South Carolina, Virginia, and West Virginia (points in Georgia or that part of Tennessee on and east of U.S. Highway 27) *, (2) to points in Maryland, Pennsylvania, and New York (Knoxville, Tenn., and Institute, W. Va.) *, (3) to points in Delaware and New Jersey (Atlanta, Ga., and Greensboro, N.C.) *, (4) to the District of Columbia (Atlanta, Ga., and Hopewell, Va.) *, (5) to points in Connecticut, Massachusetts, and Rhode Island (Atlanta, Ga., Greensboro, N.C., and Newark, N.J.) *, (6) to points in Maine, New Hampshire, and Vermont (Knoxville, Tenn., Institute, W. Va., and Syracuse, N.Y.) *, to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 63, thence along Kentucky Highway 63 to Glasgow, thence along Interstate Highway 65 to the Kentucky-Indiana State line (Copperhill, Tenn.) *, and (8) to points in Michigan and that part of Indiana on and east of a line beginning at the Michigan-Indiana State line, thence along U.S. Highway 31 to Kokomo, thence along U.S. Highway 35 to the Indiana-Ohio State line (Copperhill, Tenn., and Louisville, Ky.) *, restricted in (6) above against the transportation of liquid oxygen, liquid hydrogen, and liquid nitrogen, to points in Vermont. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 110525 (Sub-No. E1062), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicle, from Freeport, Tex., (1) to points in North Carolina, South Carolina, Virginia, and West Virginia (points in Georgia, or that part of Tennessee on and east of U.S. Highway 27) *, (2) to points in Maryland, Pennsylvania, and New York (Knoxville, Tenn., and Institute, W. Va.) *, (3) to points in Delaware and New Jersey (Atlanta, Ga., and Greensboro, N.C.) *, (4) to the District of Columbia (Atlanta, Ga., and Hopewell, Va.) *, (5) to points in Connecticut, Massachusetts, and Rhode Island (Atlanta, Ga., Greensboro, N.C., and Newark, N.J.) *, (6) to points in Maine, New Hampshire, and Vermont (Knoxville, Tenn., Institute, W. Va., and Syracuse, N.Y.) *, to points in Ohio and that part of Kentucky on and east of a line beginning at the Tennessee-Kentucky State line, thence along Kentucky Highway 163 to junction Kentucky Highway 63, thence along Kentucky Highway 63 to Glasgow, thence along Interstate Highway 65 to the Kentucky-Indiana State line (Copperhill, Tenn.) *, and (8) to points in Michigan and that part of Indiana on and east of a line beginning at the Michigan-Indiana State line, thence along U.S. Highway 31 to Kokomo, thence along U.S. Highway 35 to the Indiana-Ohio State line (Copperhill, Tenn., and Louisville, Ky.) *, restricted in (6) above against the transportation of liquid oxygen, liquid hydrogen, and liquid nitrogen to points in Vermont. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 112288 (Sub-No. E1), filed May 16, 1974. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune Street, Winston-Salem, N.C. 27107. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Hertford, Gates, Camden, Currituck, Bertie, Martin, Washington, Chowan, Perquimans, Pasquotank, Tyrrell, and Dare Counties, N.C., on the one hand, and, on the other, points in South Carolina (except those in Horry, Marion, Florence, Dillon, Williamsburg, Georgetown, Berkeley, Clarendon, Dorchester, and Charleston Counties), (B) between points in Northampton, Halifax, Nash, Edgecombe, Wilson, and Pitt Counties, N.C., on the one hand, and, on the other, points in South Carolina (except those in Dillon, Horry, Georgetown, Williamsburg, Berkeley, Dorchester, Colleton, Jaspar, Beaufort, Charleston, Clarendon, and Florence Counties), (C) between points in Vance, Granville, Franklin, Johnston, Wake, Durham, Person, and Warren Counties, N.C., on the one hand, and, on the other, points in South Carolina (except those in Horry, Marion, Florence, Dillon, Williamsburg, Georgetown, Berkeley, Clarendon, Dorchester, and Charleston Counties), (D) between points in Orange, Caswell, Rockingham, Guilford, Alamance, Chatham, and Randolph Counties, N.C., on the one hand, and, on the other, points in South Carolina (except those in Dillon, Marion, Horry, Georgetown, and Williamsburg Counties), (E) between points in Surry, Stokes, Forsyth, Davidson, Davie, Yadkin, Rowan, and Iredell Counties, N.C., on the one hand, and, on the other, points in South Carolina (except those in Horry County), (F) between points in Alleghany, Ashe, Wilkes, Watauga, Alexander, Avery, and Caldwell Counties, N.C., on the one hand, and points in South Carolina (except those in Cherokee, Union, Laurens, Spartanburg, Greenville, Pickens, Oconee, and Anderson Counties).

(G) Between points in Mitchell, Yancey, McDowell, Rutherford, Polk, Henderson, Transylvania, Jackson, Macon, Clay, Cherokee, Graham, Swain, Haywood, Madison, and Buncombe Counties, N.C., on the one hand, and, on the other, points in Dillon, Marion, Horry, Florence, Clarendon, Williamsburg, Georgetown, Berkeley, Charleston, Dorchester, Colleton, Hampton, Jaspar, Beaufort Counties), (H) between points in Burke, Catawba, Cleveland, Gaston, Mecklenburg, Union, Cabarrus, Stanly, and Anson Counties, N.C., on the one hand, and, on the other, points in South Carolina, (I) between points in Richmond, Montgomery, Moore, Scotland, Hoke, Harnett, Cumberland, Robeson, Bladen, Columbus, Brunswick, New Hanover, Pender, Sampson, N.C., on the one hand, and, on the other, points in Oconee, Pickens, Greenville, Cherokee, York, chester, Union, Spartanburg, Anderson, Abbeville, Laurens, Greenwood, McCormick, and Newberry Counties, S.C., and (J) between points in Duplin, Onslow, Carteret, Pamlico, Craven, Lenoir, Wayne, Greene, Jones, Beaufort, and Hyde Counties, N.C., on the one hand, and, on the other, points in Oconee, Pickens, Greenville, Cherokee, York, Chester, Union, Spartanburg, Anderson, Abbeville, Laurens, Greenwood, McCormick, Newberry, Edgefield, Saluda, and Aiken Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Gaston County, N.C.

No. MC 112288 (Sub-No. E2), filed May 16, 1974. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune St., Winston-Salem, N.C. 27107. Applicants representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in Montgomery, Moore, Harnett, Sampson, Bladen, Robeson, Scotland, Richmond, Hoke, and Cumberland Counties, N.C., on the one hand, and, on the other, points in Georgia (except those in Lincoln, Columbia, Richmond, Burke, Jenkins, Screven, Bulloch, Candler, Effingham, Tattnall, Evans, Bryan, Chatham, Long, Liberty, Wayne, Brantley, Camden, Charlton, Glynn, and McIntosh Counties), (B) between points in Avery, Caldwell, Alexander, Wilkes, Alleghany, Ashe, and Watauga Counties, N.C., on the one hand, and, on the other, points in Georgia (except points in Fannin, Union, Towns, and Rabun Counties), (C) between points in North Carolina (except points in Montgomery, Moore, Richmond, Hoke, Scotland, Robeson, Bladen, Columbus, Brunswick, New Hanover, Pender, Onslow, Carteret, Pamlico, Jones, Craven, Beaufort, Hyde, Lenoir, Greene, Wayne, Duplin, Sampson, Harnett, Cumberland, Rutherford, McDowell, Caldwell, Alexander, Wilkes, Alleghany, Ashe, Watauga, Avery, Yancey, Mitchell, Polk, Henderson, Bun-

combe, Madison, Haywood, Transylvania, Jackson, Macon, Swain, Graham, Clay, and Cherokee Counties), on the one hand, and, on the other, points in Georgia, (D) between points in Cherokee, Clay, Graham, Swain, Macon, Jackson, Transylvania, Haywood, Madison, Buncombe, Henderson, Polk, Rutherford, McDowell, Yancey, and Mitchell Counties, N.C., on the one hand, and, on the other, points in Lowndes, Echols, Clinch, Ware, Charlton, Camden, Glynn, Brantley, Pierce, Bacon, Appling, Wayne, Long, McIntosh, Liberty, Bryan, Effingham, and Chatham Counties, Ga.

(E) Between points in Wayne, Duplin, Greene, Lenoir, Jones, Onslow, Carteret, Craven, Beaufort, and Hyde Counties, N.C., on the one hand, and, on the other, points in Georgia (except those in Columbia, Burke, Jenkins, Screven, Candler, Bulloch, Effingham, Toombs, Tattnall, Evans, Bryan, Chatham, Long, Liberty, Appling, Wayne, McIntosh, Bacon, Pierce Brantley, Glynn, Ware, Clinch, Echols, Charlton, and Camden Counties, (F) between points in Columbus, Brunswick, New Hanover, and Pender Counties, N.C., on the one hand, and, on the other, points in Georgia (except those in Wilkes, Lincoln, Taliaferro, Hancock, Warren, McDuffie, Columbia, Richmond, Wilkinson, Washington, Glascock, Jefferson, Burke, Bleckley, Laurens, Johnson, Treutlen, Emanuel, Jenkins, Screven, Candler, Bulloch, Effingham, Pulaski, Wilcox, Dodge, Telfair, Wheeler, Montgomery, Toombs, Tattnall, Evans, Bryan, Chatham, Ben Hill, Irwin, Coffee, Jeff Davis, Appling, Wayne, Long, Liberty McIntosh, Tift, Colquitt, Cook, Berrien, Atkinson, Ware, Bacon, Pierce, Brantley, Glynn, Thomas, Brooks, Lowndes, Lanier, Echols, Clinch, Charlton, and Camden Counties). The purpose of this filing is to eliminate the gateway of points in Gaston County, N.C.

No. MC 112288 (Sub-No. E3), filed May 16, 1974. Applicant: YARBROUGH TRANSFER COMPANY, 1500 Doune Street, Winston-Salem, N.C. 27107. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (A) between points in North Carolina (except those in Surry, Stokes, Forsyth, Davidson, Davie, Yadkin, Iredell, Rockingham, Guilford, Caswell, Person, Granville, Vance, Warren, Durham, Orange, Alamance, Alleghany, Ashe, Wilkes, Watauga, Alexander, Avery, Caldwell, Mitchell, Yancey, McDowell, Burke, Rutherford, Polk, Henderson, Transylvania, Jackson, Macon, Clay, Cherokee, Graham, Swain, Haywood, Madison, and Buncombe Counties) on the one hand, and, on the other, points in Tennessee, (B) between points in Surry, Stokes, Forsyth, Davidson, Davie, Yadkin, Iredell, Rockingham, Guilford, Caswell, Person, Granville, Vance, Warren, Durham, Orange, and Alamance Counties, N.C., on the one hand, and, on the other, points in Tennessee (except those in Johnson, Carter, Sullivan, Washington, Unicoi, Hancock, Hawkins, and Greene Counties), and (C) between points in Alleghany, Ashe, Wilkes, Watauga, Alexander, Avery, and Caldwell Counties, N.C., on the one hand, and, on the other, points in Tennessee (except those in Johnson, Carter, Unicoi, Washington, Sullivan, Hawkins, Greene, Hancock, Claiborne, Campbell, Scott, Fentress, Pickett, Overton, Putnam, Cumberland, Morgan, Anderson, Union, Grainger, Knox, Jefferson, Cocke, Sevier, Blount, Roane, White, Clay, Jackson, Warren, Van Buren, Bledsoe, Rhea, Meigs, McMinn, Monroe, Polk, and Loudon Counties). The purpose of this filing is to eliminate the gateway of points in Gaston County, N.C.

No. MC 112288 (Sub-No. E6), filed May 15, 1974. Applicant: YARBROUGH TRANSFER COMPANY 1500 Doune St., Winston-Salem, N.C. 27107. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery*, which because of size or weight requires the use of special equipment, A. from points in Accomack, Northampton, Matthews, Gloucester, York, James City, Charles City, Prince George, Surry, Sussex, Southampton, Isle of Wight, Nansemond, Norfolk, and Princess Anne Counties, Va., to points in North Carolina (except those in Granville, Vance, Warren, Halifax, Northampton, Hertford, Gates, Camden, Currituck, Pasquotank, Perquimans, Chowan, Bertie, Dare, Tyrrell, Washington, Martin, Edgecomb, Nash, Franklin, Durham, Chatham, Wake, Johnston, Wilson, Wayne, Greene, Pitt, Beaufort, Hyde, Pamlico, Craven, Lenoir, Jones, Duplin, Sampson, Cumberland, Harnett, Lee, Moore, Hoke, Scotland, Robeson, Bladen, Columbus, Brunswick, New Hanover, Pender, Onslow, and Carteret Counties). B. from points in Prince Edward, Amelia, Nottoway, Dinwiddie, Lunenburg, Mecklenburg, Brunswick, Greensville, Buckingham, Cumberland, Fluvanna, Goochland, Powhatan, Chesterfield, Henrico, New Kent, Hanover, Caroline, Essex, Westmoreland, Northumberland, Richmond, Lancaster, King and Queen, and King William Counties, Va., to points in North Carolina (except those in Granville, Vance, Warren, Halifax, Northampton, Hertford, Gates, Camden, Currituck, Pasquotank, Perquimans, Chowan, Bertie, Dare, Tyrrell, Washington, Martin, Edgecomb, Nash, Franklin, Wake, Johnston, Wilson, Wayne, Greene, Pitt, Beaufort, Hyde, Pamlico, Craven, Lenoir, Jones, Columbus, Brunswick, New Hanover, Pender, Onslow, and Carteret Counties). C. from points in Bath, Rockbridge, Alleghany, Botetourt, Craig, and Roanoke Counties, Va., to points in North Carolina (except those in Rutherford, Polk, Henderson, Transylvania, Jackson, Macon, Clay, Cherokee, Graham, Swain, Haywood, Buncombe, Madison, Yancey, Mitchell, McDowell, Burke, Avery, Watauga, Caldwell, Catawba, Alexander, Iredell, Davie, Rowan, Davidson, Forsyth, Stokes, Surry, Yadkin, Wilkes, Alleghany, and Ashe Counties). D. from points in Highland, Augusta, Nelson, Ablemarle, Greene, Rockingham, Shenandoah, and Page Counties, Va., to points in North Carolina (except those in Halifax, Northampton, Hertford, Gates, Camden, Currituck, Pasquotank, Perquimans, Chowan, Bertie, Martin, Washington, Tyrrell, and Dare Counties). E. from points in Loudon, Fairfax, Prince William, Stafford, and King George Counties, Va., to points in North Carolina (except those in Granville, Vance, Warren, Halifax, Northampton, Hertford, Gates, Camden, Currituck, Pasquotank, Perquimans, Chowan, Bertie, Dare, Tyrrell, Washington, Martin, Edgecomb, Nash, Franklin, Wilson, Greene, Pitt, Beaufort, Hyde, Pamlico, Craven, Lenoir, Jones Onslow, and Carteret Counties).

F. from points in Frederick, Clarke, Warren, Fauquier, Rappahannock, Madison, Culpeper, Orange, Spotsylvania, and Louisa Counties, Va., to points in North Carolina (except those in Vance, Warren, Halifax, Northampton, Hertford, Gates, Camden, Currituck, Pasquotank, Perquimans, Chowan, Bertie, Dare, Tyrrell, Washington, Martin, Edgecomb, Nash, Franklin, Wilson, Greene, Pitt, Beaufort, Hyde, Pamlico, Craven, Lenoir, Jones, and Carteret Counties). G. from points in Henry, Franklin, Bedford, Amherst, Appomattox, Campbell, Charlotte, Halifax, and Pittsylvania Counties, Va., to points in North Carolina. H. points in Bland, Wythe, Grayson, Carroll, Patrick, Floyd, Pulaski, Montgomery, and Giles Counties, Va., to points in Caswell, Person, Alamance, Orange, Durham, Granville, Warren, Franklin, Wake, Johnston, Sampson, Bladen, Columbus, Brunswick, New Hanover, Pender, Duplin, Wayne, Wilson, Nash, Halifax, Northampton, Edgecomb, Pitt, Greene, Lenoir, Craven, Jones, Onslow, Carteret, Pamlico, Beaufort, Hyde, Dare, Tyrrell, Washington, Martin, Bertie, Hertford, Gates, Chowan, Perquimans, Pasquotank, Camden, and Currituck Counties, N.C. I. from points in Lee, Wise, Scott, Dickenson, Buchanan, Tazewell, Russell, Washington, and Smyth Counties, Va., to points in Rockingham, Chatham, Lee, Harnett, Moore, Hoke, Scotland, Robeson, Cumberland, Caswell, Person, Alamance, Orange, Durham, Granville, Vance, Warren, Franklin, Wake, Johnston, Sampson, Bladen, Columbus, Brunswick, New Hanover, Pender, Duplin, Wayne, Wilson, Nash, Halifax, Northampton, Edgecomb, Pitt, Greene, Lenoir, Craven, Jones, Onslow, Carteret, Pamlico, Beaufort, Hyde, Dare, Tyrrell, Washington, Martin, Bertie, Hertford, Gates, Chowan, Perquimans, Pasquotank, Camden, and Currituck Counties, N.C. The purpose of this filing is to eliminate the gateway of points in Caswell County, N.C.

No. MC 112822 (Sub-No. E40), filed May 17, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from points in

that part of Kansas on, east, and south of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 81 to Concordia, thence along Kansas Highway 9 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Nebraska-Kansas State line to points in Oregon (except points in Josephine County). The purpose of this filing is to eliminate the gateways of El Dorado, Kans., and Casper, Wyo.

No. MC 112822 (Sub-No. E87), filed May 12, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Wyoming to points in Arizona, New Mexico, Missouri, and points in that part of California on and south of a line beginning at the Pacific Ocean and extending along California Highway 128 to junction Interstate Highway 80, thence along Interstate Highway 80 to Sacramento, thence along U.S. Highway 50 to the California-Nevada State line. The purpose of this filing is to eliminate the gateway of any point in Colorado.

No. MC 112822 (Sub-No. E99), filed May 17, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from points in that part of Kansas on, south, and east of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 40 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Kansas-Oklahoma State line to points in Wyoming. The purpose of this filing is to eliminate the gateway of El Dorado or Wichita, Kans.

No. MC 112822 (Sub-No. E109), filed May 17, 1974. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from points in that part of Kansas on and west of U.S. Highway 77 to points in Georgia. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 113678 (Sub-No. E14), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from the storage facilities utilized by Armour and Company, at or near Worthington and Mankato, Minn. (a) To points in Arizona, California, Nevada, and New Mexico. The purpose of this filing is to eliminate the gateway of Denver, Colo. (b) To El Paso, Tex. The purpose of this filing is to eliminate the gateway of Greeley, Colo. (c) To points in Washington, Oregon, and Utah. The purpose of this filing is to eliminate the gateway of Hall County (Grand Island), Nebr. Restriction: The service authorized herein is restricted to shipments originating at said storage facilities at or near Worthington and Mankato, Minn.

No. MC 113678 (Sub-No. E16), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned dairy products and canned vegetable food products*, from Chicago, Ill., to points in Arizona. The purpose of this filing is to eliminate the gateway of Denver, Colo. (2) *Frozen meats, frozen meat products, and frozen meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Chicago, Ill.; Des Moines and Ottumwa, Iowa; and Omaha, Nebr., to points in Washington, Oregon, and Idaho. The purpose of this filing is to eliminate the gateway of Denver, Colo. (3) *Pickles*, from Chicago, Ill.; Des Moines and Ottumwa, Iowa; and Omaha, Nebr., to points in Arizona and Utah. The purpose of this filing is to eliminate the gateway of Denver, Colo. Restriction: The operations authorized in (1), (2), and (3) above, are restricted to the transportation of traffic moving to or from the facilities of meat packinghouses.

No. MC 113678 (Sub-No. E17), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen candy, frozen confectionery, and frozen confectionery products* (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Topps Chewing Gum, Inc., at or near Duryea, Pa., to points in Idaho, Nevada, North Dakota, Oregon, South Dakota, Utah, Montana, Washington, and Wyoming. Restriction: The operations authorized herein are restricted to traffic originating at the plantsite and warehouse facilities of Topps Chewing Gum, Inc., at or near Duryea, Pa. The purpose of this filing is to eliminate the gateway of Ames, Iowa.

No. MC 113843 (Sub-No. E223) (correction), filed May 12, 1974, published in the FEDERAL REGISTER August 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, meat poducts, and edible meat by-products*, as defined by the Commission, from Sandusky, Ohio, to points in that part of Connecticut on, east, and north of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 7 to junction Connecticut Highway 63, thence along Connecticut Highway 63 to junction Connecticut Highway 4, thence along Connecticut Highway 4 to junction Connecticut Highway 25, thence along Connecticut Highway 25 to junction U.S. Highway 44, thence along U.S. Highway 44 to junction U.S. Alternate Highway 44, thence along U.S. Alternate Highway 44 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction thence along U.S. Highway 6 to junction Connecticut Highway 87, thence along Connecticut Highway 87 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to the Connecticut-Rhode Island State line. The purpose of this filing is to eliminate the gateway of Detroit, Mich. (via Canada). The purpose of this correction is to reflect the origin point.

No. MC 113843 (Sub-No. E536) (correction), filed May 12, 1974, published in the FEDERAL REGISTER, August 7, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits*, from Houlton, Caribou, and Corinna, Maine, to points in Arkansas, Colorado, Iowa, Kansas, Minnesota, Nebraska, Oklahoma, Texas, and Wisconsin. The purpose of this filing is to eliminate the gateway of Elmira, N.Y. The purpose of this correction is to include Nebraska as a destination State.

No. MC 113843 (Sub-No. E757), filed May 21, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Connecticut to points in Arkansas, Colorado, Kansas, Minnesota, Nebraska, and Oklahoma. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E758), filed May 21, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in that part of Massachusetts on and east of U.S. Highway 3 to points in that part of Virginia on, south, and west of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 60 to junction U.S. Highway

220, thence along U.S. Highway 220 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E759), filed May 21, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Haven, Conn., to Wheeling and Moundsville, W. Va., and points in that part of West Virginia on, west, and south of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 21 to junction West Virginia Highway 12, thence along West Virginia Highway 12 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 19, thence along U.S. Highway 19 to Clarksburg, thence along U.S. Highway 50 to the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E760), filed May 21, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 220 to Lock Haven, thence along Pennsylvania Highway 664 to junction Pennsylvania Highway 44 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line, on the one hand, and, on the other, points in Massachusetts and Rhode Island, and points in that part of Connecticut on, east, and north of a line beginning at New Haven at Long Island Sound and extending along U.S. Highway 5 to junction Interstate Highway 91, thence along Interstate Highway 91 to junction U.S. Highway 44, thence along U.S. Highway 44 to Cannan, thence along U.S. Highway 7 to the Connecticut-Massachusetts State line. The purpose of this filing is to eliminate the gateway Elmira, N.Y.

No. MC 113843 (Sub-No. E761), filed May 21, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Rhode Island, Massachusetts, and Connecticut to points in Kentucky. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E762), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and edible meat by-products*, as defined by the Commission (except in bulk, in tank vehicles), from Cincinnati, Ohio, to points in New Hampshire. The purpose of this filing is to eliminate the gateway of Rochester, N.Y.

No. MC 113843 (Sub-No. E763), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in New Jersey to points in Colorado, Iowa, Minnesota, Nebraska, and Wisconsin. The purpose of this filing is to eliminate the gateway of LeRoy, N.Y.

No. MC 113843 (Sub-No. E779), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Richmond, Va., to Albany, N.Y., and points in that portion of New York bounded by a line beginning at the New York-Pennsylvania State line and extending along Interstate Highway 81 to junction New York Highway 7, thence along New York Highway 7 to the New York-Vermont State line to the U.S.-Canada International Boundary line, thence along the U.S.-Canada International Boundary line and the eastern and southern shores of Lake Ontario to Port Ontario, thence along New York Highway 13 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line and the point of beginning. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E780), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in those portions of Delaware and Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal (except Pocomoke City, Cambridge, and Crisfield, Md.), to points in that portion of Vermont on and north of a line beginning at the Vermont New York State line and extending along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

No. MC 113843 (Sub-No. E781), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that portion of Maryland east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal (except Pocomoke City, Cambridge, and Crisfield, Md.), to points in that portion of New Hampshire on and north of a line beginning at the Vermont-New Hamsphire State line and extending along U.S. Highway 3 to junction New Hampshire Highway 110, thence along New Hampshire Highway 110 to Berlin, thence along New Hampshire Highway 16 to junction New Hampshire Highway 26, thence along New Hampshire Highway 26 to the New Hampshire-Maine State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

No. MC 113843 (Sub-No. E782), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that part of Virginia east of the Chesapeake Bay to points in that part of Vermont on and north of a line beginning at the New York-Vermont State line and extending along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

No. MC 113843 (Sub-No. E783), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that part of Virginia east of the Chesapeake Bay to points in that part of New Hampshire on and north of U.S. Highway 2. The purpose of this filing is to eliminate the gateway of Syracuse, N.Y.

No. MC 113843 (Sub-No. E784), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that portion of Virginia east of the Chesapeake Bay to points in Aroostook and Penobscot Counties, Maine. The purpose of this filing is to eliminate the gateway of Milton, Pa.

No. MC 113843 (Sub-No. E785), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Appli-

cant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that part of Maryland east of the Chesapeake Bay (except Pocomoke City, Cambridge, and Crisfield, Md.), to points in that portion of Minnesota on, north, and west of a line beginning at the Iowa-Minnesota State line and extending along Minnesota Highway 60 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC 113843 (Sub-No. E796), May 19, 1974. Applicant REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen seafood*, from points in that portion of Virginia east of the Chesapeake Bay to points west of a line beginning at the Iowa-Minnesota State line and extending along Minnesota Highway 60 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Le Roy, N.Y.

No. MC 113843 (Sub-No. E797), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittston, Pa., to points in Illinois. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E798), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittston, Pa., to points in Indiana. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E799), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittston, Pa., to points in Missouri. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E800), filed May 19, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittston, Pa., to points in Kentucky. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 116763 (Sub-No. E8) (Correction), filed May 28, 1974, published in the FEDERAL REGISTER, August 19, 1974. Applicant: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Croswell, Mich., to points in that part of Illinois on, south, and west of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to Lebanon, thence along Illinois Highway 4 to the junction of Interstate Highway 70, thence along Interstate Highway 70 to the Illinois-Missouri State line, and points in that part of Missouri on, south, and west of a line beginning at the Illinois-Missouri State line, and extending along Interstate Highway 70 to the junction of Missouri Highway 41, thence along Missouri Highway 41 to Marshall, thence along Missouri Highway 65 to Waverly, thence along U.S. Highway 24 to Lexington, thence along Missouri Highway 13 to Richmond, thence along Missouri Highway 10 to Excelsior Springs, thence along Missouri Highway 92 to the junction of U.S. Highway 169, thence along U.S. Highway 169 to the junction of Missouri Highway 116, thence along Missouri Highway 116 to the Missouri-Kansas State line (except points in Missouri east of U.S. Highway 67), restricted to the transportation of traffic originating at the plant sites and storage facilities of Aunt Jane's Foods, Division of Borden, Inc., at Croswell, Mich. The purpose of this filing is to eliminate the gateway of points in Kentucky located in the Owensboro, Ky., commercial zone, as defined by the Commission. The purpose of this correction is to correct certain route descriptions.

No. MC 116763 (Sub-No. E9) (Correction), filed May 29, 1974, published in the FEDERAL REGISTER, August 19, 1974. Applicant: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved vegetables, canned*, from the plant site and warehouse facilities of Food Processors, Inc., at Wilson, N.C., to Kenosha, Milwaukee, and Racine, Wis., and points in Illinois, Iowa, Minnesota (except Duluth, Minneapolis and St. Paul, that part of Missouri west of U.S. Highway 67, and the St. Louis, Mo.-East St. Louis, Ill. Commercial Zone as defined by the Commission, restricted to traffic originating at the above-specified plant site and warehouse facilities. The purpose of this filing is to eliminate the gateway of points in Kentucky located in the Owensboro, Ky., Commercial Zone as defined by the Commission. The purpose of this correction is to correct U.S. Highway 67.

No. MC 116763 (Sub-No. E23) (Correction), filed May 18, 1974, published in the FEDERAL REGISTER, August 20, 1974. Applicant: CARL SUBLER TRUCKING, INC., P.O. Box 81, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay tile* (except in bulk), from Lakeland, Fla., to points in West Virginia on, west and north of a line beginning at the Kentucky-West Virginia State line near Williamson, and extending along U.S. Highway 52 to the junction of U.S. Highway 119, thence along U.S. Highway 119 to Spencer, thence along U.S. Highways 33 and 119 to Weston, thence along U.S. Highway 19 to Morgantown, thence along U.S. Highway 119 to the West Virginia-Pennsylvania State line; and to points in Pennsylvania on, west, and north of a line beginning at the West Virginia-Pennsylvania State line and extending along U.S. Highway 119 to the junction of Pennsylvania Highway 31 near Mt. Pleasant, thence along Pennsylvania Highway 31 to the junction of Pennsylvania Highway 711 near Donegal, thence along Pennsylvania Highway 711 to Ligonier, thence along Pennsylvania Highway 271 to the Junction of U.S. Highway 22, thence along U.S. Highway 22 to Cresson, thence along Pennsylvania Highway 53 to Philipsburg, thence along U.S. Highway 322, to the junction of Pennsylvania Highway 26; thence along Pennsylvania Highway 26 to the junction of Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to the junction of U.S. Highway 220, thence along U.S. Highway 220 to Larry Creek, thence along Pennsylvania Highway 287 to Wellsboro, thence along U.S. Highway 6 to Mansfield, thence along U.S. Highway 15 to the Pennsylvania-New York State line; and to points in that part of New York bounded in the west by Interstate Highway 81 and on the south by a line beginning at the junction of Interstate Highway 81 and New York Highway 221 near Marathon, and extending along New York Highway 221 to Willet, thence along New York Highway 26 to the junction of New York Highway 23, thence along New York Highway 23 to Norwich, thence along New York Highway 12 to Sangerfield, thence along U.S. Highway 20 to the junction of New York Highway 10, thence along New York Highway 10 to Palatine Branch, thence along New York Highway 5 to Amsterdam, thence along New York Highway 67 to Ballston Spa, thence along New York Highway 50

to Saratoga, thence along U.S. Highway 9 to Glens Falls, thence along U.S. Highway 4 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateway of Lawrenceburg, Ky. The purpose of this correction is to indicate Pennsylvania as a destination State and to correct typographical errors

No. MC 116915 (Sub-No. E3), filed June 3, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, 1125 Sweeney Street, Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum oil well and mine machinery, aluminium pipe, and aluminum supplies*, (1) from points in Georgia, Kentucky (except those east of Kentucky Highway 91 and north of U.S. Highway 60), those points in Indiana on and south of a line beginning at New Harmony and extending along Indiana Highway 68 to Dale, thence along U.S. Highway 231 to Haysville, thence along Indiana Highway 56 to Madison, those points in Tennessee on and east of Tennessee Highway 22, and those points in Mississippi on and east of a line beginning at the Tennessee-Mississippi State line and extending along Mississippi Highway 2 to Ripley, thence along Mississippi Highway 15 to Laurel, thence along U.S. Highway 11 to the Mississippi-Louisiana State line to Minneapolis, Minn., and points in Iowa and Wisconsin, (2) from points in Kentucky north of U.S. Highway 60 to Minneapolis, Minn., points in Iowa and those points in Wisconsin on and north of Wisconsin Highway 70, and (3) from points in Kentucky west of Kentucky Highway 91, points in Tennessee west of Tennessee Highway 22 and points in Mississippi west of a line beginning at the Tennessee-Mississippi State line and extending along Mississippi Highway 2 to Ripley, thence along Mississippi Highway 15 to Laurel, thence along U.S. Highway 11 to the Mississippi-Louisiana State line to Minneapolis, Minn., and points in Wisconsin. The purpose of this filing is to eliminate the gateway of the plant site of Harvey Aluminum, Inc., in Hancock County, Ky.

No. MC 119774 (Sub-No. E10), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit* as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459; and (2) *Conduit* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico to points in the District of Columbia. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and points in Oklahoma.

No. MC 119774 (Sub-No. E122), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic conduit* from the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark., to points in Nevada. The purpose of this filing is to eliminate the gateway of Burns Flat, Okla.

No. MC 119774 (Sub-No. E271), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, pipe, plastic pipe connections, and plastic pipe couplings* (except that used or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from Oklahoma City, Okla., to points in Florida and Louisiana. The purpose of this filing is to eliminate the gateway of Lone Star, Tex.

No. MC 134356 (Sub-No. E1), filed June 4, 1974. Applicant: GALE DELIVERY, INC., P.O. Box 573, Lynbrook, Long Island, N.Y. 11. Applicant's representative: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. The purpose of this filing is to eliminate the gateway of points in Hudson County, N.J.

No. MC 127122 (Sub-No. E3), filed June 3, 1974. Applicant: SIMPSONVILLE GARAGE WRECKER SERVICE, P.O. Box 66, Simpsonville, Ky. 40067. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 12101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles, and replacement vehicles and parts therefor*, by use of wrecker equipment only, between points in the Lower Peninsula of Michigan and points in the Upper Peninsula of Michigan on, south, and east of Interstate Highway 75, and points in the Sault Ste. Marie commercial zone, on the one hand, and, on the other, points in Nebraska; points in Iowa on and south of a line beginning at the Iowa-Wisconsin State line and Iowa Highway 64, thence over Iowa Highway 64 to its intersection with U.S. Highway 151, thence over U.S. Highway 151 to Cedar Rapids, thence over Iowa Highway 150 to its intersection with U.S. Highway 20, thence over U.S. Highway 20 to Waterloo, thence over U.S. Highway 20 to Sioux City, thence over U.S. Highway 20 to the Iowa-Nebraska State line and points in Iowa in the Waterloo, Sioux City, and Cedar Rapids commercial zones; and points in Wyoming beginning at the intersection of U.S. Highway 30 with the Nebraska-Wyoming State line, thence over U.S. Highway 30 to Cheyenne, thence over Interstate Highway 25 to Casper, thence over Wyoming Highway 220 to its intersection with U.S. Highway 287, thence over U.S. Highway 287 to its intersection with U.S. Highway 89, thence over U.S. Highway 89 to its intersection with Wyoming Highway 22, thence over Wyoming Highway 22 to its intersection with the Wyoming-Idaho State line, and points in Wyoming in the Cheyenne and Casper commercial zones. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 127122 (Sub-No. E4), filed June 3, 1974. Applicant: JOE MOSS, dba SIMPSONVILLE GARAGE WRECKER SERVICE, P.O. Box 66, Simpsonville, Ky. 40067. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles, and replacement vehicles and parts* therefor by use of wrecker equipment only, between points in Michigan on and south of a line from Port Huron, westward over Michigan Highway 21 to Flint (including Flint and its commercial zone as defined by the Commission), thence on Michigan Highway 21 to Grand Rapids (including Grand Rapids and its commercial zone), thence over Interstate Highway 96 to its intersection with Michigan Highway 104, thence over Michigan Highway 104 to Ferrysburg, on the one hand, and, on the other, points in Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, and Iowa. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 127122 (Sub-No. E5), filed June 3, 1974. Applicant: JOE MOSS, dba SIMPSONVILLE GARAGE WRECKER SERVICE, P.O. Box 66, Simpsonville, Ky. 40067. Applicant's representative: John M. Nader, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles, and replacement vehicles and parts* therefor by use of wrecker equipment only, between points in Michigan on and south of Michigan Highway 32, on the one hand, and, on the other, points in Iowa, Nebraska, Wyoming, points in Wisconsin on and south of U.S. Highway

18, including Milwaukee and Madison, and points in their respective commercial zones, points in Montana on and south of a line beginning at the intersection of U.S. Highway 93 with the Canadian-United States International Border, thence over U.S. Highway 93 to Kalispell, thence over U.S. Highway 2 to its intersection with U.S. Highway 89 to Browning, thence over U.S. Highway 89 to Great Falls, Mont., including Great Falls and points in its commercial zone, thence over U.S. Highway 89 at its intersection with Interstate Highway 90, thence over Interstate Highway 90 to Billings, including Billings and points in its commercial zone, thence over U.S. Highway 87 to its intersection with the Montana-Wyoming State line, and points in South Dakota on and a line beginning at the Minnesota-South Dakota State line, at its intersection with U.S. Highway 16, thence over U.S. Highway 16 to its intersection with U.S. Highway 83, thence over U.S. Highway 83 to Pierre, including Pierre and points in its commercial zone, thence over U.S. Highway 14 to Rapid City, including Rapid City and points in its commercial zone, thence over U.S. Highway 14 to Sturgis, thence over Alternate U.S. Route 14 to its intersection with U.S. Highway 85, thence over U.S. Highway 85 to the South Dakota-Wyoming State line. The purpose of this filing is to eliminate the gateway of points in Illinois.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.74-22064 Filed 9-20-74;8:45 am]

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[Notice 132]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 17, 1974.

The following are notices of filing of application, 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, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 C.F.R. 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

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 field office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 371TA), filed September 9, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palm oil and derivatives, and coconut oil and derivatives*, in bulk, in tank vehicles, from Portland, Oreg., to points in the United States (including Alaska, but excluding Hawaii), for 180 days. Supporting shipper: Palmco, Inc., 12005 N. Burgard Road, P.O. Box 03380, Portland, Oreg. 97203. Send protests to: District Supervisor A. J. Rodriguez, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 1293 (Sub-No. 3TA), filed September 9, 1974. Applicant: EBEL TRANSFER, INC., 212 W. Sherman Street, West Point, Nebr. 68788. Applicant's representative: Vern Fred Ebel, Box A, Scribner, Nebr. 68057. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Omaha, Nebr., and Lyons, Nebr., serving the intermediate and off-route points of Oakland, Uehling, Winslow, Hooper, Nickerson, and Arlington, from Omaha over U.S. Highway 75 to junction of U.S. Highway 75 and U.S. Highway 77, thence over U.S. Highway 77 to Lyons and return over the same route, for 180 days. Supporting shippers: There are approximately 55 statements of support attached to the application, which may be examined here 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: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 No. 14 Street, Omaha, Nebr. 68102.

NOTE.—Applicant states that it does intends to tack and/or interline with any other carrier with authority held in MC 1293.

No. MC 5470 (Sub-No. 99TA), filed September 6, 1974. Applicant: TAJON, INC., R.D. #5, Mercer, Pa. 16137. Applicant's representative: Don Cross, 918 Sixteenth St. NW., Washington, D.C. 20006, and/or William A. Eshenbaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anthracite coal*, in bulk, in dump vehicles, from points in Luzerne, Carbon, and Schuylkill Counties, Pa., to the plantsite of BASF Wyandotte Corporation at Wyandotte, Mich., for 180 days. Supporting shipper: BASF Wyandotte Corporation, 1000 Cherry Hill Road, Parsippany, N.J. 07054. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 19311 (Sub-No. 28TA), filed August 30, 1974. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site of Guardian Industries, Inc., at or near Upper Sandusky, Ohio, as an off route point in connection with carrier's otherwise authorized regular route operations to and from Findlay and Mansfield, Ohio, for 180 days. Supporting shipper: Guardian Industries, Inc., Plant Manager, 14600 Tomine Road, Carleton, Mich. 48117. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 29910 (Sub-No. 147TA), filed September 6, 1974. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Gary D. Bronson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden and wirebound box and crating material*, from the plantsite of the Chicago Mill and Lumber Company located at West Helena, Ark., to points in Ohio, for 180 days. Supporting shipper: Chicago Mill and Lumber Company, P.O. Box 1400, Greenville, Miss. 38701. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 29910 (Sub-No. 148TA), filed September 6, 1974. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Forth Smith, Ark. 72901. Applicant's representative: Gary D. Bronson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flattened car bodies and scrap metal* for recycling, from points in Arkansas, Missouri, and Tennessee, to Chicago, Ill., including Gary and Hammond, Ind., for 180 days. Supporting shipper: Krushette Kleen, Inc., Box 661, Livingston, Mont. 59047. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 51146 (Sub-No. 392TA), filed August 30, 1974. Applicant: SCHNEIDER

TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from points in Portage County, Wis., to points in the United States, for 180 days. Supporting shipper: American Potato Company, 555 California Street, San Francisco, Calif. (H. E. Link, Corporate Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 82492 (Sub-No. 112TA), filed September 5, 1974. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from St. Louis, Mo., to points in Iowa, Kansas, and Nebraska, restricted to traffic originating at the facilities utilized by P. V. O. International, Inc., at St. Louis, Mo., for 180 days. Supporting shipper: P. V. O. International, Inc., 3400 N. Wharf, St. Louis, Mo. 63147. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 82492 (Sub-No. 113TA), filed September 5, 1974. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes and potato products*, from Plover, Wis., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, those points in New York in and west of Allegheny, Livingston, and Monroe Counties and those points in Pennsylvania on and west of U.S. Highway 219, for 180 days. Supporting shipper: American Potato Company, Bank of America Center, 555 California Street, San Francisco, Calif. 94104. Send protests to: C. R. Fleming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 100666 (Sub-No. 283TA), filed September 6, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, Suite 280, National Foundation Life Center, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Ft. Mill, S.C., to points in Alabama and Tennessee, for 180 days. Supporting shipper: Queen City Plastics, Inc., P.O. Box 15612, Charlotte, N.C. 28210, K. C. Jones, Plant Manager. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 103051 (Sub-No. 322TA), filed September 5, 1974. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: William G. North (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from points in Mecklenburg County, N.C., to points in Ohio, for 180 days. Supporting shipper: Gold Kist, Inc., P.O. Box 2210, Atlanta, Ga. 30301. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 105269 (Sub-No. 58TA), filed September 6, 1974. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986, Kalamazoo, Mich. 49005. Applicant's representative: Thomas B. Woodworth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard or fibreboard boxes*, knocked down flat or folded flat other than corrugated, from Kalamazoo, Mich., to Campbellsville, Harlan, Hiseville, Hopkinsville, Lexington, Midway, Morehead, Murray, Owensvoro, Russell, and Russellville, Ky.; and (2) *Paper mill materials and supplies*, from the above destinations, to Kalamazoo, Mich., for 180 days. Supporting shipper: International Paper Company, Single Service Division, 2315 Miller Road, Kalamazoo, Mich. 49003. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107295 (Sub-No. 737TA), filed September 9, 1974. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Richard Vollmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from the plantsite and storage facilities of Evans Products Company at or near Chesapeake, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Texas, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting Shipper: Joseph D. Sharpe, Ass't to the General Traffic Manager, Evans Products Company, 201 Dexter Street West, Chesapeake, Va. 23324. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 111729 (Sub-No. 463TA), filed September 6, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, office supplies, and critical replacement parts*, relative to the telephone industry, restricted to the transportation of packages or articles weighing in the aggregate no more than 50 pounds from one consignor to one consignee on any one day, between Charlottesville, Va., on the one hand, and, on the other, Asheboro, Catawba, Eden, Elkin, Granite Falls, Hickory, Hillsborough, Madison, Mocksville, Mt. Airy, North Wailkesboro, Pilot Mountain, Ramseur, Roxboro, Troy, Valdese, West Jefferson, and Walkertown, N.C.; (2) *Business papers, records, audit and accounting media of all kinds*, (a) between Counce, Tenn., on the one hand, and, on the other, points in Alabama and Mississippi, north of U.S. State Highway #20, and (b) between Lexington, Ky., on the one hand, and, on the other, Craigsville and Holden, W. Va., and Keen Mountain, Va.; and (3) *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material* moving therewith (excluding motion picture film used primarily for commercial theatre and television exhibition), between Memphis, Tenn., on the one hand, and, on the other, points in Missouri, south of U.S. State Highway #70, for 180 days. Supporting shippers: (1) Central Telephone Company of Virginia, 2211 Hydraulic Road, Charlottesville, Va.; (2) Tennessee River Pulp and Paper Company, P.O. Box 33, Counce, Tenn.; (3) Island Creek Coal Company, 167 W. Main Street, P.O. Box 710, Lexington, Ky.; and (4) Fox Photo, 735 North Parkway, Memphis, Tenn. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113828 (Sub-No. 221 TA), filed September 9, 1974. Applicant: O'BOYLE TANK LINES, INCORPORATED, P.O. Box 30006, Washington, D.C. Applicant's representatives: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006, and/or Michael A. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lithium Ore*, via ex-rail, from Richmond, Va., to Dutch Gap, Va., ex-rail from Richmond, Va., to storage facility at Dutch Gap, Va., and via tank truck, approximately 10 tons per month, for 90 days. Note: Supplier unable to pro-

vide truckloading at shipping point. Supporting shipper: Corning Glass Works, P.O. Box 709, Martinsburg, W. Va. 25401. Send protests to: District Supervisor W. C. Hersman, Interstate Commerce Commission, Bureau of Operations, 12th & Constitution Avenue, N.W., Room 317, Washington, D.C. 20423.

No. MC 114725 (Sub-No. 66 TA), filed September 6, 1974. Applicant: WYNNE TRANSPORT SERVICE, INC., 2606 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and feed supplements*, from Blair, Nebr., to points in California and Arizona, for 180 days. Supporting shipper: Ruminant Nitrogen Products Company, P.O. Box 450, 128 South 17th Street, Blair, Nebr. 68008. Send protests to: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 115278 (Sub-No. 2 TA), filed September 3, 1974. Applicant: SIEGEL & COHEN EXPRESS, INC., 567 South 11th Street, Newark, N.J. 07103. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount and department stores, between points in the New York, N.Y., Commercial Zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451 (1951), within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), on the one hand, and, on the other, Hampton, Va.; Virginia Beach and Portsmouth, Va., for 180 days. Restriction: The authority granted herein is restricted to the transportation of shipments destined to the facilities of "Trend Centers", a subsidiary of Robert Hall Clothes. Supporting shipper: Robert Hall Clothes, 333 West 34th Street, New York, N.Y. 10001. Send protests to: District Supervisor Robert S. H. Vance, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 116073 (Sub-No. 305 TA), filed September 5, 1974. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Moorhead, Minn. 56560. Applicant's representative: David L. Wanner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings*, complete or in sections, transported on wheeled undercarriages, from the plantsite of Marshfield Homes in Chillicothe, Mo., to Creston, Des Moines, Sioux City, Winterset, Ottumwa, Burlington, Keokuk, Boone, and Spencer, Iowa, for 180 days. Supporting shipper: Marshfield Homes, P.O. Box 687, 400 South Mitchell, Chillicothe, Mo. 64601. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119226 (Sub-No. 88 TA), filed September 3, 1974. Applicant: LIQUID TRANSPORT, CORP., 3901 Madison Avenue, Indianapolis, Ind. 46227. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal oils, greases, tallow*, in bulk, in tank vehicles, from Jeffersonville, Ind., to points in Connecticut, for 180 days. Supporting shipper: Geo. Pfau's Sons Co., P.O. Box 7, Jeffersonville, Ind. 47130. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, Century Building, Eighth Floor, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 119399 (Sub-No. 47 TA), filed September 4, 1974. Applicant: CONTRACT FREIGHTERS, INC., 2900 David Boulevard, Joplin, Mo. 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers from Fort Worth, Tex., to Lamar, Mo., for 180 days. Supporting shipper: Stahl Sales Company, Route No. 3, Lamar, Mo. 64759. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119434 (Sub-No. 4 TA), filed September 6, 1974. Applicant: JOYCE TRUCKING COMPANY, 1621 Shields Avenue, Chicago Heights, Ill. 60411. Applicant's representative: Carl L. Steiner, 39 S. La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts*, from the plantsite and warehouse facilities of the Ford Motor Company at Chicago Heights, Ill., to O'Hare International Airport and Midway Airport, Chicago, Ill., restricted to shipments having a subsequent movement by air, for 150 days. Supporting shipper: W. G. Knuff, Ford Motor Company, 1000 E. Lincoln Highway, Chicago Heights, Ill. 60411. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 119489 (Sub-No. 37 TA), filed September 5, 1974. Applicant: PAUL ABLER, doing business as CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and feed supplements*, from Blair, Nebr., to points in California and Arizona, for 180 days. Supporting shipper: Ruminant Nitrogen Products Company, P.O. Box 450, 128 South 17th Street, Blair, Nebr. 68008. Send protests to: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 124701 (Sub-No. 10TA) (Correction), filed August 26, 1974, published in the FEDERAL REGISTER issue of September 11, 1974, and republished as corrected this issue. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, Box 2184, 622 Lowell Street, Peabody, Mass. 01960.

NOTE.—The purpose of this republication is to show the applicant's correct MC number as No. MC 124701 (Sub-No. 10 TA), in lieu of No. MC 124071 (Sub-No. 10 TA), which was published in the FEDERAL REGISTER in error. The rest of the application will remain the same.

No. MC 127812 (Sub-No. 19 TA), filed September 5, 1974. Applicant: TYSON TRUCK LINES, INC., 185 Fifth Avenue SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries*, between New Brighton, Minn., on the one hand, and, on the other, points in Ashland, Barron, Bayfield, Buffalo, Burnett, Clark, Chippewa, Douglas, Dunn, Eau Claire, Iron, Jackson, LaCrosse, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Trempealeau, Washburn, and Vilas Counties, Wis., for 180 days. Supporting shippers: There are approximately 25 statements of support attached to the application, which may be examined here 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: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 110 South 4th Street, Room 414, Federal Building & U.S. Courthouse, Minneapolis, Minn. 55401.

No. MC 128273 (Sub-No. 158 TA), filed September 3, 1974. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum alloys, aluminum products and articles, aluminum foil backed with paper, and aluminum foil backed with pulpboard* (except commodities in bulk and commodities which because of size and weight require use of special equipment), from plant sites

and storage facilities of Kaiser Aluminum & Chemical Corporation at Ravenswood, W. Va., to points in Arkansas, Kansas, California, Missouri, Oklahoma and Texas, for 180 days. Supporting shipper: Kaiser Aluminum & Chemical Corporation, 300 Lakeside Drive, Oakland, Calif. 94612. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 136008 (Sub-No. 41 TA), filed September 5, 1974. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 N.W. 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite*, from points in Natrona County, Wyo., to points in Arkansas, Kansas, Oklahoma and Texas, for 180 days. Supporting shipper: Henry McCabe, President, McCabe Minerals and Chemical Company, Lincoln Center, Ardmore, Okla. 73401. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240—Old P.O. Bldg., 215 N.W. Third, Oklahoma City, Okla. 73102.

No. MC–136285 (Sub-No. 11 TA), filed September 10, 1974. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., 137 Fair Street, P.O. Box 9165, Savannah, Ga. 31402. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged clay* in cargo containers, from the facilities of Floridin Company near Quincy, Fla. and near Havana, Fla. (in Gadsden County, Fla.), to Jacksonville, Fla., restricted to the transportation of traffic having subsequent movement by water and (2) *Empty cargo containers* to be used in the transportation of bagged clay, from Jacksonville, Fla., to the facilities of Floridin Company near Quincy, Fla. and near Havana, Fla. (in Gadsden County, Fla.), for 180 days. Supporting shippers: Pennsylvania Glass Sand Corporation, No. 3 Penn Center Bldg., Pittsburgh, Pa. 15235, and Sea-Land Service, Inc., 2701 Talleyrand Avenue, Jacksonville, Fla. 32206. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 136915 (Sub-No. 7 TA), filed September 9, 1974. Applicant: GOODMAN TRANSPORTATION, INC., 4062 South 3rd West Street, Salt Lake City, Utah 84107. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site of Joe Doctorman & Son, South Salt Lake City, Utah, to (1) Waco, Larado, Fort Worth, Houston, and San Antonio, Tex.; (2) Los Angeles, Los Angeles Commercial Zone, San Francisco, San Diego, San Jose, Sacramento, and Stockton, Calif.; and (3) Elko, Winnemucca, and Reno, Nev., for 180 days. Supporting shipper: Joe Doctorman & Son, Inc., 2900 South 3rd West, Salt Lake City, Utah 84115 (Harry Doctorman, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 125 South State Street, 5301 Federal Building, Salt Lake City, Utah 84138.

No. MC 136915 (Sub-No. 8 TA), filed September 9, 1974. Applicant: GOODMAN TRANSPORTATION, INC., 4062 South 3rd West, P.O. Box 7213, Murray, Utah 84107. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plant site of Joe Doctorman & Son, South Salt Lake City, Utah, to Dallas, Tex., for 180 days. Supporting shipper: Joe Doctorman & Son, Inc., 2900 South 3rd West, Salt Lake City, Utah 84115 (Harry Doctorman, Vice-President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State Street, Salt Lake City, Utah 84138.

No. MC 139336 (Sub-No. 4 TA), filed September 6, 1974. Applicant: TRANSTATES, INC., 2449 Marseilles Way, Costa Mesa, Calif. 92626. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycle parts and accessories* in specially designed equipment, from points in Orange County, Calif., to points in the United States, for 180 days. Supporting shipper: Kimstock, Inc., 2200 South Yale Street, Santa Ana, Calif. 92704. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, Calif. 90012.

No. MC 139858 (Sub-No. 1 TA) (Amendment), filed August 26, 1974, published in the FEDERAL REGISTER issue of September 11, 1974, and republished as amended this issue. Applicant: AMSTAN TRUCKING, INC., 40 West 40th Street, New York, N.Y. 10018. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbers' goods and fittings*, from the plantsite of American Standard located at Louisville, Ky., to points in Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham Counties, Conn.; Dover, Lewes, and Wilmington, Del.; points in the District of Columbia; Auburn, Bangor, Lewiston, and Portland, Maine; points in Allegany, Anne Arundel, Baltimore, Calvert, Carrol, Cecil, Charles, Dorchester, Garrett, Frederick, Harford, Howard, Kent, Montgomery, Prince Georges, Queen Anne, St. Marys, Wicomico, and Worcester Counties, Md., and Baltimore, Md.; points in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties, Mass.; Berlin, Concord, Laconia, Manchester, Salem and Waterville, N.H.; Atlantic City, N.J.; points in Bergen, Camden, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union, and Warren Counties, N.J.; Albany, Amherst, Binghamton, Buffalo, Corning, East Rochester, Elmira, Falconer, Haverstraw, Hudson, Ithaca, Kingston, Liberty, Lockport, Middletown, New York City, Niagara Falls, Nyack, Olean, Port Jervis, Poughkeepsie, Rochester, Schenectady, Syracuse, Troy, and Utica, N.Y.; points in Nassau, Suffolk, and Westchester Counties, N.Y.; Asheboro, Asheville, Burlington, Charlotte, Durham, Fayetteville, Graham, Greensboro, Greenville, Jacksonville, Kingston, Morehead City, Mount Airy, New Bern, Pinehurst, Raleigh, Sanford, Shelby, Wilmington, Wilson, and Winston-Salem, N.C.; Allentown, Altoona, Bethleham, Berwyn, Carlisle, Carnegie, Chester, Easton, Erie, Harrisburg, Haverford, Hazleton, Johnstown, Lancaster, Lansdale, Lansdowne, Lebanon, New Castle, Norristown, Pittsburgh, Reading, Philadelphia, Wilkes-Barre, Scranton, Williamsport, Willow Grove, and York, Pa.

Central Falls, Providence, Warwick, Westerly, and Woonsocket, R.I.; Anderson, Columbia, Charleston, Florence, Greenville, Hilton Head, Manning, Myrtle Beach, and Spartanburg, S.C.; Barre, Burlington, Rutland, St. Johnsbury, and White River Junction, Vt.; and Alexandria, Charlottesville, Danville, Emporia, Fredericksburg, Hampton, Lynchburg, Manassas, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, Roanoke, Staunton, Virginia Beach, and Winchester, Va.; Arlington and Fairfax Counties, Va.; and (2) *Materials, equipment supplies and accessories* used in manufacture and distribution of plumbers' goods and fittings, from the named destination points in (1) above, to Louisville, Ky., under a continuing contract with American Standard, Inc., for 180 days. Supporting shipper: American Standard, Inc., P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 139934 (Sub-No. 2TA) (correction), filed July 3, 1974, published in the FEDERAL REGISTER issues of July 17, 1974, and July 29, 1974, and republished as corrected this issue. Applicant: WALKER CONTRACT CARRIER, INC., 4214 Beach Park Drive, Tampa, Fla. 33609. Applicant's representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers and empty containers, the containers being with or without bogies (chassis), having an immediate prior or subsequent movement by water, between Tampa and Port Manatee, Fla., on the one hand, and, on the other, points in Florida, east and southeast of the Suwanee River, for 180 days. Supporting shippers: A. J. Arango, Inc., 709 Franklin St., Tampa, Fla.; Hillebaum-Tampa, Inc., 501 Jackson St., Tampa, Fla. 33602; Eller & Company, 13th & York Street, Tampa, Fla.; and Fillette, Green & Co. of Tampa, P.O. Box 2948, Tampa, Fla. 33601. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Palm Coast II Building, Suite 208, 5255 NW. 87th Avenue, Miami, Fla. 33166.

NOTE.—The purpose of this republication is to correct the commodity description to read as above in lieu of "Containers, empty or loaded, with or without bogies (chassis), general commodities, which was published in the FEDERAL REGISTER in error in previous publications.

No. MC 140074 (Sub-No. 1TA), filed September 5, 1974. Applicant: WALDO W. WILLIAMS, doing business as TRIPLE W TRANSPORT, Route 2, Missoula, Mont. 59801. Applicant's representative: Jerome Anderson, 100 Transwestern Bldg., 404 North 31st Street, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from the Intermountain Company sawmill located at or near Salmon, Idaho, to the Hoerner-Waldorf plant site located approximately thirteen (13) miles west of Missoula, Mont., for 180 days. Supporting shipper: Hoerner Waldorf Corporation, Drawer D, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 140123 (Sub-No. 1TA), filed September 6, 1974. Applicant: J. C. BEASLEY, Route 3, Linden, Tenn. 37096. Applicant's representative: A. O. Buck, 618 Hamilton Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railroad cross ties, switch ties, crossing blanks, and related rail ties*, from points in Dickson, Hickman, Humphreys, Lawrence, Lewis, Perry, Wayne, and Williamson Counties, Tenn., and Trigg County, Ky., to points in Kentucky, Illinois, Indiana, Mississippi, and Tennessee, for 180 days. Supporting shipper: Moss-American, Inc., Dickson, Tenn. 37055. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803–1808 West End Building, Nashville, Tenn. 37203.

No. MC 140126 (Sub-No. 1TA), filed September 6, 1974. Applicant: MARVIN H. PRITCHETT AND CLEATUS WARD, doing business as PRITCHETT-WARD, Main & Broad Streets, P.O. Box 311, Lake Butler, Fla. 32054. Applicant's representative: William J. Haley, P.O. Box 1029, Lake City, Fla. 32055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from points in Baker, Columbia, Suwannee, Hamilton, and Union Counties, Fla., to Clyattville, Ga., for 180 days. Supporting shipper: O–I Timber Corp. (Owens-Illinois, Inc.), P.O. Box 1620, Jacksonville, Fla. 32201. Send protests to: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 140150 (Sub-No. 1TA), filed September 3, 1974. Applicant: UNITED OIL OF IDAHO, INC., 1992 Kimberly Road, P.O. Box 405, Twin Falls, Idaho 83301. Applicant's representative: John R. Coleman, P.O. Box 525, Twin Falls, Idaho 83301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato starch slurry*, a waste material, in bulk, from Ontario, Oreg., to Murtaugh, Idaho, for 180 days. Supporting shipper: A. E. Staley Manufacturing Company, 2200 Eldorado Street, Decatur, Ill. 62525. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort, Box 07, Boise, Idaho.

No. MC 140168 (Sub-No. 1TA), filed September 3, 1974. Applicant: FANETTI REFRIGERATED TRANSPORT, Route 1, Box 29–A, Bloomer, Wis. 54724. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat*, fresh, inedible, from Greenwood and Cameron, Wis., to Bloomsburg and Allentown, Pa.; Cleveland and Sebring, Ohio; Chicago, Ill.; and New Paris, Ind., for 180 days. Supporting shipper: Barr Animal Food, Greenwood, Wis. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Courthouse, 110 So. 4th Street, Minneapolis, Minn. 55401.

No. MC 140172 (Sub-No. 1TA), filed September 3, 1974. Applicant: ED DAVENPORT, P.O. Box 907, Brady, Tex. 76825. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from points in McCulloch County, Tex., to points in Louisiana, Oklahoma, and Tennessee, for 180 days. Supporting shippers: Halliburton Services, P.O. Box 1431, Duncan, Okla. 73533; Western Company, P.O. Box 186, Fort Worth, Tex. 76101; Dowell Division of Dow Chemical Company, P.O. Box 21, Tulsa, Okla. 74102; and CX Products Corp., 1200 Simons Bldg., Dallas, Tex. Send protests to: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 140176 TA filed September 3, 1974. Applicant: RILEY WAYNE POWELL, doing bsuiness as POWELL TRUCKING COMPANY, Route 3, Sumrall, Miss. 39482. Applicant's representative: Fred W. Johnson, Jr., 717 Deposit Guaranty Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles and piling*, treated and untreated, from the plant site of Davis Lumber Company, Hattiesburg, Miss., to points in Michigan, Kentucky, Tennessee, Alabama, Georgia, Indiana, Louisiana, Arkansas, Missouri, Texas, Kansas, South Carolina, Ohio, New York, Nebraska, Virginia, North Carolina, Illinois, Oklahoma, Florida, and West Virginia, for 180 days. Supporting shipper: Davis Lumber Company, P.O. Box 1591, Hattiesburg, Miss. 39401. Send protests to: Alan C. Tarrant, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 2121, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 140178 (Sub-No. 1TA), filed September 6, 1974. Applicant: BRAY DELIVERY, INC., 6856 Knoll Avenue, St. Louis, Mo. 63134. Applicant's representative: Hettie O. Bray (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ladies ready to wear clothing and other items*, handled for the account of Thomas W. Garland, Inc., between St. Louis, Mo., and Fairview Heights, Ill., for 180 days. Supporting shipper: Thomas W. Garland's, Inc., 410 N. 6th Street, St. Louis, Mo. 63101. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 140179 TA, filed September 6, 1974. Applicant: NRG HAULING, INC., Sacramento, Ky. 42372. Applicant's representative: Fred F. Bradley, P.O. Box 773, 213 St. Clair Street, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, between points in Ballard, Butler, Breckinridge, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Todd, Trigg, Union, and Webster Counties, Ky., for 180 days. Supporting shipper: Jerry Driskill, Hartford, Ky. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 140182 (Sub-No. 1 TA), filed September 4, 1974. Applicant: LEROY HOFFMAN AND GILBERT HOFFMAN, P.O. Box 43, St. Clair, Mo. 63077. Applicant's representative: Dale E. Sporleder, 614 Central Trust Building, Jefferson City, Mo. 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* by the driveaway method and with a towbar by the driveaway method, from the plant and warehouse facilities of Steelweld Equipment Company, Inc., located at or near St. Clair, Franklin County, Mo., to points in Kansas, Illinois, Arkansas, and Oklahoma, for 180 days. Supporting shipper: B. G. Loyd, Motor Vehicle Methods Supervisor, Southwestern Bell Telephone Co., 1010 Pine Street, Room 1024, St. Louis, Mo. 63101. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 140185 TA, filed September 6, 1974. Applicant: NEAL BROWN, LEON BROWN, AND CLAYTON BROWN, doing business as BROWN BROTHERS, Main Street, Lavaca, Ark. 72941. Applicant's representative: James M. Llewellyn, Jr., P.O. Box 108, Citizens Bank Building, Lavaca, Ark. 72941. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ceramic, plastic, vinyl, and asbestos tile and floor coverings and materials and supplies* for the installation of named floor coverings, from New Orleans, La.; Houston, Tex.; Mineral Wells, Tex.; Cleveland, Miss.; Jackson, Tenn.; and Des Plaines, Ill., to Little Rock, Ark.; Barling, Ark.; Tulsa, Okla.; and Oklahoma City, Okla.; to include transport between Little Rock, Ark.; Barling, Ark.; Tulsa, Okla.; and Oklahoma City, Okla., and to points within seventy-five (75) miles of the destination cities of Little Rock, Ark.; Barling, Ark.; Tulsa, Okla.; and Oklahoma City, Okla., for 180 days. Supporting shippers: Plunkett Company of Oklahoma, Inc. and Plunkett Company of Arkansas, Inc., 1717 North 75th E. Avenue, P.O. Box 51332, Tulsa, Okla. 74151. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 140188 (Sub-No. 1 TA), filed August 30, 1974. Applicant: GROUND AIR TRANSFER, INC., P.O. Box 8315, Detroit, Mich. 48213. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods or commodities requiring special equipment), restricted to traffic having a prior or subsequent movement by air, between the Cleveland-Hopkins Airport and the Lakefront Airport at Cleveland, Ohio, on the one hand, and, on the other, Lordstown, Ohio, for 150 days. Supporting shipper: General Motors Corporation, GM Assembly Division, 30007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

## Motor Carriers of Passengers

No. MC 29948 (Sub-No. 8 TA), filed September 9, 1974. Applicant: EMPIRE LINES, INC., 1125 W. Sprague Avenue, Spokane, Wash. 99210. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, between Wenatchee and Ellensburg, Wash., serving all intermediate points, from Wenatchee over Washington State Highway 28 to Quincy, thence over Washington State Highway 281 to George, thence over Interstate Highway 90 to Ellensburg and return over the same route, for 180 days. Supporting shipper: Greyhound Lines, Inc. (Western Division), 371 Market Street, San Francisco, Calif. 94106. Send protests to: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Building, 909 1st Avenue, Seattle, Wash. 98174.

NOTE.—Applicant, Empire Lines, Inc., will tack the authority sought with its present authority at Wenatchee, Wash. Empire's regular route service, authorized by Certificate of Public Convenience and Necessity in Interstate Commerce Commission Docket MC 29948, and Subs thereunder, extends North from Wenatchee along U.S. Highway 97 into British Columbia, Canada, and East from Brewster, Wash., located on U.S. Highway 97 North of Wenatchee, to Spokane, Wash., and Coeur d'Alene, Idaho and Empire Lines will interchange with Greyhound Lines-West at Ellensburg, Wash., for passengers going West to Seattle, Wash., South to points in Washington, Oregon, California, and Nevada, and Eastward across the continent. Connections will be made with Greyhound at Coeur d'Alene for passengers travelling Eastward.

No. MC 139035 (Sub-No. 1 TA) (Amendment), filed August 27, 1974, published in the FEDERAL REGISTER issue of September 11, 1974, and republished as amended this issue. Applicant: NATIONAL BUS LEASING, INC., 11408 Old Baltimore Pike, Beltsville, Md. 20705. Applicant's representative: Clarice Rowe (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle as passengers, in charter operations, beginning and ending at Washington, D.C. and extending to points in Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Indiana, Ohio, Michigan, Maryland, New Jersey, Delaware, Pennsylvania, New York, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine, for 180 days. Supporting shipper: Maryland Arrows, Springhill Drive, Greenbelt, Md. Send protests to: District Supervisor W. C. Hersman, Interstate Commerce Commission, Bureau of Operations, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

No. MC 139807 (Sub-No. 1 TA), filed September 9, 1974. Applicant: NAPA TRANSIT COMPANY, a corporation, 1851 Soscol Avenue, Napa, Calif. 94558. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations in round-trip sightseeing or pleasure tours, beginning and ending at points in the County of Sonoma, Calif.; and extending to points in California and Nevada, for 180 days. Supporting shippers: Ken-Tours Associated, P.O. Box 426, Kenwood, Calif. 95452; Lawson's Corners, 6001 Sonoma Highway, Santa Rosa, Calif. 95405; Petaluma Bowl, 8 Kazen Way, Petaluma, Calif.; Saint James Parish, 1650 Ely Road, Petaluma, Calif. 94952; and Santa Rosa Moose Lodge, 2350 Santa Rosa Avenue, Santa Rosa, Calif. Send protests to: A. J. Rodriguez, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.74-22065 Filed 9-20-74;8:45 am]

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PART II

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug

■

# FOOD ADDITIVES AND GRAS SUBSTANCES

Title 21—Food and Drugs

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

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PART 121—FOOD ADDITIVES

## Substances Prohibited From Use in Human Food

The Commissioner of Food and Drugs proposed establishment of new § 121.106 *Substances prohibited from use in food* in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040). The proposal included the listing of 13 food ingredients under this new section which were prohibited from use in food by previous actions of the Food and Drug Administration, and revocation of trade correspondence and specific sections of the Code of Federal Regulations presently applicable to the regulation of these ingredients.

The proposal was based upon the Commissioner's conclusion that previous actions of this kind should be consolidated into one regulation for ease of reference and ready availability to the public of the record of such actions. It was emphasized that the proposal contained no new actions on the listed substances, was not intended to be a complete compilation of presently prohibited food ingredients, and cannot be interpreted to mean that a substance may lawfully be used in food because it is not listed in this section. The Commissioner also provided for addition or deletion of substances from the proposed list, at his own initiative or on the petition of any interested person, as additional scientific information becomes available for each subject ingredient.

Four comments from animal feed manufacturers were received in response to the proposal, requesting that the proposed section clearly indicate its exclusive applicability to human food and requesting confirmation that the proposal does not effect the use of cobalt salts for animal use, as permitted in § 121.101(f) (21 CFR 121.101(f)). The Commissioner confirms that continued use of cobalt salts in animal feed is permitted by § 121.101(f) and he has taken appropriate action to clarify that § 121.106 is applicable only to human food. Exclusion of animal feed from this section, however, cannot be interpreted as permission for such use.

In addition to the 13 substances included in the proposed list of prohibited food ingredients, the Commissioner is including mercaptoimidazoline and 2-mercaptoimidazoline in the list of prohibited indirect food ingredients in § 121.106(e)(3). This addition does not represent a new action by the Commissioner, and is based upon an order published in the FEDERAL REGISTER of November 30, 1973 (38 FR 33072).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047, 1055, 72 Stat. 1784–1787, as amended; 21 U.S.C. 321(s), 342, 348, 371(a)), and under authority delegated to the Commissioner (21 CFR 2.120), Trade Correspondence No. 377 (December 29, 1941) is revoked; and in Title 21 of the Code of Federal Regulations, §§ 3.14, 3.33, and 3.65 of Part 3 are revoked, and a new § 121.106 is added to Part 121, as follows:

§§ 3.14, 3.33, 3.65 [Revoked]

1. Part 3 is amended by revoking §§ 3.14, 3.33 and 3.65.

2. Part 121 is amended by adding the following new section:

§ 121.106 Substances prohibited from use in human food.

(a) The food ingredients listed in this section have been prohibited from use in human food by the Food and Drug Administration because of a determination that they present a potential risk to the public health or have not been shown by adequate scientific data to be safe for use in human food. Use of any of these substances in violation of this section causes the food involved to be adulterated in violation of the act.

(b) This section includes only a partial list of substances prohibited from use in human food, for easy reference purposes, and is not a complete list of substances that may not lawfully be used in human food. No substance may be used in human food unless it meets all applicable requirements of the act.

(c) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to establish, amend, or repeal a regulation under this section on the basis of new scientific evaluation or information. Any such petition shall include an adequate scientific basis to support the petition, shall be in the form set forth in § 2.65 of this chapter, and will be published for comment if it contains reasonable grounds.

(d) Substances prohibited from direct addition or use as human food:

(1) *Calamus, oil of calamus, extract of calamus.* (i) Calamus is the dried rhizome of *Acorus calamus* L. It has been used as a flavoring compound, especially as the oil or extract.

(ii) Food containing any added calamus, oil of calamus, or extract of calamus is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of May 9, 1968 (33 FR 6967).

(iii) The analytical method used for detecting oil of calamus ($\beta$-asarone) is in the *Journal of the Association of Official Analytical Chemists* 56(5):1281–1283, Sept. 1973.[1]

(2) *Dulcin.* (i) Dulcin is the chemical 4-ethoxyphenylurea, $C_9H_{12}N_2O_2$. It is a synthetic chemical having a sweet taste about 250 times that of sucrose, is not found in natural products at levels detectable by the official methodology, and has been proposed for use as an artificial sweetener.

(ii) Food containing any added or detectable level of dulcin is deemed to be adulterated in violation of the act, based upon an order published in the FEDERAL REGISTER of January 19, 1950 (15 FR 321).

(iii) The analytical methods used for detecting dulcin in food are in §§ 20.133 through 20.136 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(3) *P–4000.* (i) P–4000 is the chemical 5-nitro-2-n-propoxyaniline, $C_9H_{12}N_2O_3$. It is a synthetic chemical having a sweet taste about 4000 times that of sucrose, is not found in natural products at levels detectable by the official methodology, and has been proposed for use as an artificial sweetener.

(ii) Food containing any added or detectable level of P–4000 is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of January 19, 1950 (15 FR 321).

(iii) The analytical methods used for detecting P–4000 in food are in §§ 20.137 through 20.141 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(4) *Coumarin.* (i) Coumarin is the chemical 1,2-benzopyrone, $C_9H_6O_2$. It is found in tonka beans and extract of tonka beans, among other natural sources, and is also synthesized. It has been used as a flavoring compound.

(ii) Food containing any added coumarin as such or as a constituent of tonka beans or tonka extract is deemed to be adulterated under the act, based upon an order published in the FEDERAL REGISTER of March 5, 1953 (19 FR 1239).

(iii) The analytical methods used for detecting coumarin in food are in §§ 19.014 through 19.023 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(5) *Cyclamate; calcium, sodium, magnesium and potassium.* (i) Calcium, sodium, magnesium and potassium salts of cyclohexane sulfamic acid, $(C_6H_{12}NO_3S)_2Ca$, $(C_6H_{12}NO_3S)NA$, $(C_6H_{12}NO_3S)_2Mg$, and $C_6H_{12}NO_3S)K$. Cyclamates are synthetic chemicals having a sweet taste 30 to 40 times that of sucrose, are not found in natural products at levels detectable by the official methodology, and have been used as artificial sweeteners.

(ii) Food containing any added or detectable level of cyclamate is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of October 21, 1969 (34 FR 17063).

(iii) The analytical methods used for detecting cyclamate in food are in §§ 20.127 through 20.132 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(6) *Safrole.* (i) Safrole is the chemical 4-allyl-1,2-methylenedioxy-benzene, $C_{10}H_{10}O_2$. It is a natural constituent of the sassafras plant. Oil of sassafras is about 80 percent safrole. Isosafrole and dihy-

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

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drosafrole are derivatives of safrole, and have been used as flavoring compounds.

(ii) Food containing any added safrole, oil of sassafras, isosafrole, or dihydrosafrole, or any safrole as a constituent of any food or extract is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 3, 1960 (25 FR 12412).

(iii) The analytical method used for detecting safrole, isosafrole and dihydrosafrole is in the *Journal of the Association of Official Analytical Chemists* 54 (4):900–902, July 1971.[1]

(7) *Monochloroacetic acid.* (i) Monochloroacetic acid is the chemical chloroacetic acid, $C_2H_3ClO_2$. It is a synthetic chemical not found in natural products, and has been proposed as a preservative in alcoholic and nonalcoholic beverages. Monochloroacetic acid is permitted in food package adhesives with an accepted migration level up to 10 parts per billion (ppb) under § 121.2520. The official methods do not detect monochloroacetic acid at the 10 ppb level.

(ii) Food containing any added or detectable level of monochloroacetic acid is deemed to be adulterated in violation of the act based upon trade correspondence dated December 29, 1941 (TC–377).

(iii) The analytical methods used for detecting monochloroacetic acid in food are in §§ 20.057 through 20.062 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(8) *Thiourea.* (i) Thiourea is the chemical thiocarbamide, $CH_4N_2S$. It is a synthetic chemical, is not found in natural products at levels detectable by the official methodology, and has been proposed as an antimycotic for use in dipping citrus.

(ii) Food containing any added or detectable level of thiourea is deemed to be adulterated under the act.

(iii) The analytical methods used for detecting thioureau are in §§ 20.009 through 20.100 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(9) *Cobaltous salts; acetate, chloride and sulfate.* (i) Cobaltous salts are the chemicals, $CoC_4H_6O_4$, $CoCl_2$, and $CoSo_4$. They have been used in fermented malt beverages as a foam stabilizer and to prevent "gushing."

(ii) Food containing any added cobaltous salts is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of August 12, 1966 (31 FR 8788).

(10) *NDGA (Nordihydroguaiaretic acid).* (i) Nordihydroguaiaretic acid is the chemical 4,4'-(2,3-dimethyltetramethylene) dipyrocatechol. $C_{18}H_{22}O_4$. It occurs naturally in the resinous exudates of certain plants. The commercial product, which is synthesized, has been used as an antioxidant in foods.

(ii) Food containing any added NDGA is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of April 11, 1968 (33 FR 5619).

(iii) The analytical method used for detecting NDGA in food is in § 20.008 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[1]

(11) *DEPC (Diethylpyrocarbonate).* (i) Diethylpyrocarbonate is the chemical pyrocarbonic acid diethyl ester, $C_6H_{10}O_5$. It is a synthetic chemical not found in natural products at levels detectable by available methodology and has been used as a ferment inhibitor in alcoholic and nonalcoholic beverages.

(ii) Food containing any added or detectable level of DEPC is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of August 2, 1972 (37 FR 15426).

(e) Substances prohibited from indirect addition to human food through use in food-contact surfaces:

(1) *Flectol H.* (i) Flectol H is the chemical 1,2-dihydro-2,2,4-trimethylquinoline, polymerized, $C_{12}H_{17}N$. It is a synthetic chemical not found in natural products, and has been used as a component of food packaging adhesives.

(ii) Food containing any added or detectable level of this substance is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of April 7, 1967 (32 FR 5675).

(2) *4,4'-Methylenebis (2-chloroanaline).* (i) 4,4'-Methylenebis (2-chloroanaline) has the molecular formula, $C_{13}H_{12}Cl_2N_2$. It is a synthetic chemical not found in natural products and has been used as a polyurethane curing agent and as a component of food packaging adhesives and polyurethane resins.

(ii) Food containing any added or detectable level of this substance is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 2, 1969 (34 FR 19073).

(3) *Mercaptoimidazoline and 2-mercaptoimidazoline.* (i) Mercaptoimidazoline and 2-mercaptoimidazoline both have the molecular formula $C_3H_6N_2S$. They are synthetic chemicals not found in natural products and have been used in the production of rubber articles that may come into contact with food.

(ii) Food containing any added or detectable levels of these substances is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of November 30, 1973 (38 FR 33072).

*Effective date.* This order is effective October 23, 1974.

(Secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047, 1055, 72 Stat. 1784–1787, as amended; 21 U.S.C. 321(s), 342, 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference materials approved by the Director of the Office of the Federal Register March 20, 1973 and August 9, 1974.

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[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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## PART 121—FOOD ADDITIVES

### Designation of Food Categories and Food Ingredient Functions

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20044), the Commissioner of Food and Drugs proposed to amend § 121.1 to add two new paragraphs defining food categories under § 121.1(n) and physical or technical functional effects produced by direct human food ingredients under § 121.1(o). The definitions were proposed to establish a uniform system whereby food ingredients may be regulated according to the listed food categories and physical or technical food processing function.

The food categories and food ingredient functions listed in the proposal were adopted from descriptions incorporated in the National Academy of Sciences/National Research Council (NAS/NRC) 1972 survey of industry, on the production and use of GRAS and prior-sanctioned food substances. The utility of these descriptions in the survey and their use in the 1972 NAS/NRC survey report and summary data, on production, use, and consumption of the ingredients, provides a sound basis for adopting them as a uniform system for regulating ingredients by food categories and functional effects.

Eight comments were received in response to the proposal. Two of these comments were letters of inquiry, seeking clarification of the applicability of proposed food categories to specific foods. Four additional comments suggested changes in 35 of the proposed 43 food categories, and 18 of the proposed 31 functional effect categories.

The Commissioner notes that although many of these suggestions sought consistency with established regulatory food standards, and were otherwise helpful in establishing better definitions for food and functional effect categories, most of the suggestions reflected a lack of clear understanding that designated food categories have been cross-referenced to specific food products in Exhibit 33B of the NAS/NRC report, "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe" (September 1972). This report

is incorporated by reference into the regulation for purposes of resolving close questions with respect to proper classification of specific foods.

On the basis of the comments received, the Commissioner concludes that it would be appropriate to clarify the descriptions of some food categories and functional effect categories. Accordingly, editorial changes of this nature have been made in many places.

In addition to these editorial modifications, some comments requested major revision of proposed definitions or objected to their use in regulating food ingredients. The specific comments raised, and the Commissioner's conclusions thereon, are as follows:

1. Comments stated that the adoption of separate definitions for the use of "antioxidants" and "preservatives" was in conflict with the singular definition of "preservative" in other regulations and section 403 of the Federal Food, Drug, and Cosmetic Act.

Although the food and functional effect categories in proposed §§ 121.1(n) and § 121.1(o) are designated for the specific purpose of establishing tolerances or limitations for the use of direct human food ingredients, the Commissioner agrees that the adoption of these separate functional effect categories may create uncertainty or ambiguity. The Commissioner concludes that the proposed "preservatives" functional effect category should be redesignated as "antimicrobial agents." The definitions for "antioxidant" and "antimicrobial agent" have been changed to state that each is used for a preservative effect within the meaning of section 403 of the act.

2. One comment objected to use of the term "dough conditioner", as a functional effect, on the ground that this is a general term used to designate dough strengtheners, oxidizing and reducing agents, and yeast foods and calcium salts. The comment stated that different ingredients may be required for each of these three functional effects, to produce a single workable and stable dough.

The Commissioner agrees with this comment. Accordingly, this term has been replaced by the more specific "dough strengthener" and "oxidizing and reducing agent" functional effects, with appropriate definitions. Yeast foods and calcium salts, used to stimulate or produce carbon dioxide in baked goods, are adequately described as "leavening agents", and the Commissioner concludes that the definition of this category should be expanded to provide inclusion of yeast foods and calcium salts. This will not create a hardship for the baking industry or unnecessary functional effect categories. The NAS/NRC "dough conditioner" category has also been appropriately cross-referenced to the replacement terms adopted here, by including such cross-referencing within the adopted definitions for the new term.

3. One comment objected to the use of functional effect categories to regulate use limitations for food ingredients. The comment argued that limitations of use, within specific food categories, adequately describe permissible ingredient use and requested the Commissioner to withdraw functional effect considerations for food ingredients.

As the Commissioner has indicated in the proposal and the discussion herein, the adoption of standardized functional food processing effects is intended to provide a systematic dictionary of terms whereby food ingredients and food additives can be defined and regulated on a common basis. Adoption of these terms will provide a common understanding of regulatory requirements affecting such ingredients. The Commissioner concludes that such understanding is in the best interests of the public and therefore denies this request.

4. Two comments requested clarification of various food categories including confections and frostings as defined in § 121.1(n)(9), hard candy and cough drops as defined in § 121.1(n)(25), and soft candy as defined in § 121.1(n)(38). Designation of the correct food category was also requested for chocolate covered nut rolls, solid chocolate bars, lump sugar, and meat substitutes.

Although the Commissioner has already answered these questions by letter, copies of which are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, he has also attempted to clarify the interpretation of these and other food categories by adding additional descriptive terms to each food category in this regulation. The Commissioner acknowledges, however, that these additional descriptive terms will not serve to answer all questions relating to the classification of specific foods within the adopted broad food categories. The 1972 NAS/NRC Comprehensive Survey, containing approximately 4,000 specific food descriptions cross-referenced to these broad food categories, has been incorporated into this regulation by reference to meet the individual needs of interested parties.

In answer to the specific questions asked by these comments, both chocolate covered nut rolls and solid chocolate bars are soft candy as defined in § 121.1(n)(38), lump sugar is listed under confections and frostings as defined in § 121.1(n)(9), and meat substitutes are listed under plant protein products as defined in § 121.1(n)(33) if they are of plant protein origin.

5. One comment suggested modifications in the grouping of condiments and relishes as defined in § 121.1(n)(8), and herbs, seeds, spices, seasonings, blends, extracts, and flavorings as defined in § 121.1(n)(26). The comment also suggested definition changes for functional effect listings of "flavor enhancers" as defined in § 121.1(o)(11), and "flavoring agents and adjuvants" as defined in § 121.1(o)(12). The suggested definition changes included the cross-referencing of these functional effect categories to specific parts of these identified food categories, as well as definition changes for the functional effect categories.

Although the Commissioner has adopted modified versions of the functional effect definitions suggested by this comment, these definitions have not been adopted with cross-reference to specific food categories because they represent specific definitions that may be interpreted only with designated applicability. This interpretation would be contrary to the Commissioner's intended use of this regulation, to define functional effects for which food ingredients may be added to broad general food categories.

The Commissioner has also considered each of the food category redesignations suggested by this comment. They have been rejected, however, because there is insufficient reason to support such redesignations, other than the respondent's preference. Such adoption would also cause unjustified confusion by cross-referencing the suggested categories to those adopted by the NAS/NRC.

The Commissioner concludes that more precise definitions than those proposed are necessary for nutritive and non-nutritive sweeteners. Therefore, the proposed "sweetener" functional effect category has been changed to "nutritive sweetener" in this regulation to clarify its meaning, and both nutritive and non-nutritive sweeteners have been defined in terms of their caloric value clearly to distinguish their separate meanings.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to § 121.1 new paragraphs (n) and (o) to read as follows:

§ 121.1 Definitions and interpretations.

* * * * *

(n) The following general food categories are established to group specific related foods together for the purpose of establishing tolerances or limitations for the use of direct human food ingredients. Individual food products will be included within these categories according to the detailed classification lists contained in Exhibit 33B of the report of the National Academy of Sciences/National Research Council report, "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe" (September 1972):[1]

(1) Baked goods and baking mixes, including all ready-to-eat and ready-to-bake products, flours, and mixes requiring preparation before serving.

(2) Beverages, alcoholic, including malt beverages, wines, distilled liquors, and cocktail mix.

(3) Beverages and beverage bases, nonalcoholic, including only special or spiced teas, soft drinks, coffee substitutes, and fruit and vegetable flavored gelatin drinks.

[1] Copies may be obtained from: National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151.

(4) Breakfast cereals, including ready-to-eat and instant and regular hot cereals.

(5) Cheeses, including curd and whey cheeses, cream, natural, grating, processed, spread, dip, and miscellaneous cheeses.

(6) Chewing gum, including all forms.

(7) Coffee and tea, including regular, decaffeinated, and instant types.

(8) Condiments and relishes, including plain seasoning sauces and spreads, olives, pickles, and relishes, but not spices or herbs.

(9) Confections and frostings, including candy and flavored frostings, marshmallows, baking chocolate, and brown, lump, rock, maple, powdered, and raw sugars.

(10) Dairy product analogs, including non-dairy milk, frozen or liquid creamers, coffee whiteners, toppings, and other non-dairy products.

(11) Egg products, including liquid, frozen, or dried eggs, and egg dishes made therefrom, i.e., egg roll, egg foo young, egg salad, and frozen multi-course egg meals, but not fresh eggs.

(12) Fats and oils, including margarine, dressings for salads, butter, salad oils, shortenings, and cooking oils.

(13) Fish products, including all prepared main dishes, salads, appetizers, frozen multi-course meals, and spreads containing fish, shellfish, and other aquatic animals, but not fresh fish.

(14) Fresh eggs, including cooked eggs and egg dishes made only from fresh shell eggs.

(15) Fresh fish, including only fresh and frozen fish, shellfish, and other aquatic animals.

(16) Fresh fruits and fruit juices, including only raw fruits, citrus, melons, and berries, and home-prepared ades and punches made therefrom.

(17) Fresh meats, including only fresh or home-frozen beef or veal, pork, lamb or mutton and home-prepared fresh meat-containing dishes, salads, appetizers, or sandwich spreads made therefrom.

(18) Fresh poultry, including only fresh or home-frozen poultry and game birds and home-prepared fresh poultry-containing dishes, salads, appetizers, or sandwich spreads made therefrom.

(19) Fresh vegetables, tomatoes, and potatoes, including only fresh and home-prepared vegetables.

(20) Frozen dairy desserts and mixes, including ice cream, ice milks, sherbets, and other frozen dairy desserts and specialties.

(21) Fruit and water ices, including all frozen fruit and water ices.

(22) Gelatins, puddings, and fillings, including flavored gelatin desserts, puddings, custards, parfaits, pie fillings, and gelatin base salads.

(23) Grain products and pastas, including macaroni and noodle products, rice dishes, and frozen multi-course meals, without meat or vegetables.

(24) Gravies and sauces, including all meat sauces and gravies, and tomato, milk, buttery, and specialty sauces.

(25) Hard candy and cough drops, including all hard type candies.

(26) Herbs, seeds, spices, seasonings, blends, extracts, and flavorings, including all natural and artificial spices, blends, and flavors.

(27) Jams and jellies, home-prepared, including only home-prepared jams, jellies, fruit butters, preserves, and sweet spreads.

(28) Jams and jellies, commercial, including only commercially processed jams, jellies, fruit butters, preserves, and sweet spreads.

(29) Meat products, including all meats and meat containing dishes, salads, appetizers, frozen multi-course meat meals, and sandwich ingredients prepared by commercial processing or using commercially processed meats with home preparation.

(30) Milk, whole and skim, including only whole, lowfat, and skim fluid milks.

(31) Milk products, including flavored milks and milk drinks, dry milks, toppings, snack dips, spreads, weight control milk beverages, and other milk origin products.

(32) Nuts and nut products, including whole or shelled tree nuts, peanuts, coconut, and nut and peanut spreads.

(33) Plant protein products, including the National Academy of Sciences/National Research Council "reconstituted vegetable protein" category, and meat, poultry, and fish substitutes, analogs, and extender products made from plant proteins.

(34) Poultry products, including all poultry and poultry containing dishes, salads, appetizers, frozen multi-course poultry meals, and sandwich ingredients prepared by commercial processing or using commercially processed poultry with home preparation.

(35) Processed fruits and fruit juices, including all commercially processed fruits, citrus, berries, and mixtures; salads, juices and juice punches, concentrates, dilutions, ades, and drink substitutes made therefrom.

(36) Processed vegetables and vegetable juices, including all commercially processed vegetables, vegetable dishes, frozen multi-course vegetable meals, and vegetable juices and blends.

(37) Snack foods, including chips, pretzels, and other novelty snacks.

(38) Soft candy, including candy bars, chocolates, fudge, mints, and other chewy or nougat candies.

(39) Soups, home-prepared, including meat, fish, poultry, vegetable, and combination home-prepared soups.

(40) Soups and soup mixes, including commercially prepared meat, fish, poultry, vegetable, and combination soups and soup mixes.

(41) Sugar, white, granulated, including only white granulated sugar.

(42) Sugar substitutes, including granulated, liquid, and tablet sugar substitutes.

(43) Sweet sauces, toppings, and syrups, including chocolate, berry, fruit, corn syrup, and maple sweet sauces and toppings.

(o) The following terms describe the physical or technical functional effects for which direct human food ingredients may be added to foods. They are adopted from the National Academy of Sciences/National Research Council national survey of food industries, reported to the Food and Drug Administration under the contract title "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe" (September 1972):[1]

(1) "Anticaking agents and free-flow agents": Substances added to finely powdered or crystalline food products to prevent caking, lumping, or agglomeration.

(2) "Antimicrobial agents": Substances used to preserve food by preventing growth of microorganisms and subsequent spoilage, including fungistats, mold and rope inhibitors, and the effects listed by the National Academy of Sciences/National Research Council under "preservatives."

(3) "Antioxidants": Substances used to preserve food by retarding deterioration, rancidity, or discoloration due to oxidation.

(4) "Colors and coloring adjuncts": Substances used to impart, preserve, or enhance the color or shading of a food, including color stabilizers, color fixatives, color-retention agents, etc.

(5) "Curing and pickling agents": Substances imparting a unique flavor and/or color to a food, usually producing an increase in shelf life stability.

(6) "Dough strengtheners": Substances used to modify starch and gluten, thereby producing a more stable dough, including the applicable effects listed by the National Academy of Sciences/National Research Council under "dough conditioner."

(7) "Drying agents": Substances with moisture-absorbing ability, used to maintain an environment of low moisture.

(8) "Emulsifiers and emulsifier salts": Substances which modify surface tension in the component phase of an emulsion to establish a uniform dispersion or emulsion.

(9) "Enzymes": Enzymes used to improve food processing and the quality of the finished food.

(10) "Firming agents": Substances added to precipitate residual pectin, thus strengthening the supporting tissue and preventing its collapse during processing.

(11) "Flavor enhancers": Substances added to supplement, enhance, or modify the original taste and/or aroma of a food, without imparting a characteristic taste or aroma of its own.

(12) "Flavoring agents and adjuvants": Substances added to impart or help impart a taste or aroma in food.

(13) "Flour treating agents": Substances added to milled flour, at the mill, to improve its color and/or baking qualities, including bleaching and maturing agents.

(14) "Formulation aids": Substances used to promote or produce a desired physical state or texture in food, includ-

[1] Copies may be obtained from: National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151.

ing carriers, binders, fillers, plasticizers, film-formers, and tableting aids, etc.

(15) "Fumigants": Volatile substances used for controlling insects or pests.

(16) "Humectants": Hygroscopic substances incorporated in food to promote retention of moisture, including moisture-retention agents and anti-dusting agents.

(17) "Leavening agents": Substances used to produce or stimulate production of carbon dioxide in baked goods to impart a light texture, including yeast, yeast foods, and calcium salts listed by the National Academy of Sciences/National Research Council under "dough conditioners."

(18) "Lubricants and release agents": Substances added to food contact surfaces to prevent ingredients and finished products from sticking to them.

(19) "Non-nutritive sweeteners"; Substances having less than 2 percent of the caloric value of sucrose per equivalent unit of sweetening capacity.

(20) "Nutrient supplements"; Substances which are necessary for the body's nutritional and metabolic processes.

(21) "Nutritive sweeteners": Substances having greater than 2 percent of the caloric value of sucrose per equivalent unit of sweetening capacity.

(22) "Oxidizing and reducing agents": Substances which chemically oxidize or reduce another food ingredient, thereby producing a more stable product, including the applicable effect listed by the National Academy of Sciences/National Research Council under "dough conditioners."

(23) "pH control agents": Substances added to change or maintain active acidity or basicity, including buffers, acids, alkalies, and neutralizing agents.

(24) "Processing aids": Substances used as manufacturing aids to enhance the appeal or utility of a food or food component, including clarifying agents, clouding agents, catalysts, flocculents, filters aids, and crystallization inhibitors, etc.

(25) "Propellants, aerating agents, and gases": Gases used to supply force to expel a product or used to reduce the amount of oxygen in contact with the food in packaging.

(26) "Sequestrants": Substances which combine with polyvalent metal ions to form a soluble metal complex, to improve the quality and stability of products.

(27) "Solvents and vehicles": Substances used to extract or dissolve another substance.

(28) "Stabilizers and thickeners": Substances used to produce viscous solutions or dispersions, to impart body, improve consistency, or stabilize emulsions, including suspending and bodying agents, setting agents, jellying agents, and bulking agents, etc.

(29) "Surface-active agents": Substances used to modify surface properties of liquid food components for a variety of effects, other than emulsifiers, but including solubilizing agents, dispersants, detergents, wetting agents, rehydration enhancers, whipping agents, foaming agents, and defoaming agents, etc.

(30) "Surface-finishing agents": Substances used to increase palatability, preserve gloss, and inhibit discoloration of foods, including glazes, polishes, waxes, and protective coatings.

(31) "Synergists": Substances used to act or react with another food ingredient to produce a total effect different or greater than the sum of the effects produced by the individual ingredients.

(32) "Texturizers": Substances which affect the appearance or feel of the food.

*Effective date.* This order is effective on October 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

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## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

METHYLPARABEN AND PROPYLPARABEN; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENTS

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20048), a proposal was published to affirm methylparaben and propylparaben as generally recognized as safe (GRAS) for use as direct human food ingredients, and to establish a new § 121.104, under which all direct human food ingredients affirmed as GRAS would be listed. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced Food and Drug Administration review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with provisions of § 121.40, relating to the affirmation of GRAS food ingredients, a copy of the Scientific Literature Review on methylparaben and propylparaben, data on the teratology experiments on these ingredients, and the report of the Select Committee on GRAS Substances (SCOGS) for methylparaben and propylparaben have been made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. The same data and information have also been made available for public purchase through the facilities of the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151 as announced in notices of availability published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054) and April 17, 1974 (39 FR 13796).

In addition to the proposal to affirm the GRAS status of methylparaben and propylparaben, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for these ingredients, other than for the proposed conditions of use. Persons asserting such additional or extended uses, as a result of sanctions approved by the U.S. Department of Agriculture or the Food and Drug Administration, were requested to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. This request was also presented as an opportunity to have prior-sanctioned uses of methylparaben and propylparaben approved by issuance of an appropriate regulation under Subpart E, substances for which prior sanctions have been granted, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was given that failure to submit proof of an applicable prior sanction in response to this request would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for methylparaben or propylparaben were submitted in response to this notice. Therefore, in accordance with this notice, any right to assert a prior sanction for a use of these ingredients under conditions different from those set out in the regulations has been waived.

Three comments were received in response to the Commissioner's proposal and supporting data and information on methylparaben and propylparaben. A summary of the comments and the Commissioner's conclusions thereon are as follows:

1. One comment requested that the spelling of "methylparaben" and "propylparaben" and "methyl *p*-hydroxybenzoate" and "propyl *p*-hydroxybenzoate" be made consistent with identical nomenclature used in the Food Chemicals Codex and the U.S. Pharmacopeia for these compounds.

The Commissioner concludes that the regulations for these compounds should be consistent with these compendia and this nomenclature has therefore been adopted throughout this document.

2. The second comment suggested that the 18-month rat feeding study, summarized in the Select Committee's report to the Commissioner, should be considered a carcinogenicity study for propylparaben. In the opinion of this respondent the Select Committee was in error when concluding that "no oral carcinogenicity studies of the parabens have been reported."

Although this comment may in principle be correct, the Commissioner has been advised by the Select Committee that this study was not considered a carcinogenicity study because there was no evidence of pathological examination for abnormal cell growth or neoplasms in the test animals. Unless a long-term feeding study is specifically conducted as a carcinogenicity study, or otherwise demonstrates pathological examination for abnormal cell growth, the Select Commit-

tee will not assume that the investigators made or were trained to make such an examination. The Commissioner concurs in this conclusion.

3. The third comment opposed specifying methods of manufacture for substances in proposed § 121.104. The comment contended that methods of manufacture are unjustifiably restrictive and unrelated to the safety evaluation. The comment indicated that good manufacturing practice requires manufacturers to test for impurities which may be unique to their own method of manufacture, and that neither the Food Chemicals Codex nor the FAO/WHO Food Additives Committee incorporates process descriptions within their specifications for food additives. Therefore the comment concluded that methods of manufacture are not required to establish safety, serve no other useful purpose, and should be deleted from these regulations.

The Commissioner concludes that sufficient information on methods of manufacture must be incorporated into GRAS affirmation regulations to identify the GRAS ingredient and to differentiate it from variations of the ingredient that have not yet been determined to be GRAS. Methods of manufacture have been an important search parameter in the preparation of Scientific Literature Reviews on GRAS and prior-sanctioned substances. Changes in methods of manufacture have also been considered in §§ 121.3 and 121.40, wherein the Commissioner expressed his willingness and intent to consider the affirmed GRAS status of ingredients that have been significantly modified by commercial manufacturing methods.

The Commissioner is not restricted to specifications of the Food Chemicals Codex or other compendia in describing safety specifications for food ingredients. These compendia are not intended to set safety specification requirements for ingredients made by new methods of manufacture. The law does not contemplate uncontrolled use of new methods of manufacture, which could result in increased levels of impurities or contaminants.

The Commissioner further concludes that there are no better means of describing significant alterations in chemical composition of food ingredients modified by method of manufacture, than by describing a manufacturing method of acceptable reference. Incorporation of a description of a method of manufacture with sufficient specificity to identify the ingredient into affirmed GRAS regulations will also provide a universal definition of the chemical origin of the ingredient which has been evaluated and affirmed as GRAS by the Commissioner.

Although the Commissioner finds that methods of manufacture are justifiably related to the GRAS status of food ingredients, this conclusion does not eliminate the manufacturer's responsibility to utilize current good manufacturing practices to produce the safest possible product nor inhibit chemical and food technology. The Commissioner intends to specify only those parameters found necessary to establish the identity and safety of the ingredient. Thus, while synthetic food ingredients will require varying degrees of specificity in describing the method(s) of manufacture, most natural food ingredients will only require identification of the natural source of the ingredient and possibly extraction or distillation methods used in processing this natural ingredient. Methods of manufacture other than those included in these proposals may be included in the final regulation if brought to the Commissioner's attention and found to be safe.

In further consideration of the methods of manufacture of methylparaben and propylparaben described in the proposal, the Commissioner concludes that these methods must be described with more specificity in order adequately to identify them. Accordingly, additional details of the methods of manufacture have been incorporated into the final regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In § 121.101(d) by revising the introductory text, the table heading, and the entry for "Methylparaben (methyl *p-hydroxybenzoate*)" and "Propylparaben (propyl *p*-hydroxybenzoate)" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(d) Substances that are generally recognized as safe for their intended use within the meaning of section 409 of the act are listed as follows: When the status of a substance has been reevaluated and affirmed as GRAS or deleted from this paragraph, an appropriate explanation will be noted, e.g., "affirmed as GRAS," "food additive regulation," "interim food additive regulation," or "prohibited from use in food," with a reference to the appropriate new regulation. Such notation will apply only to the specific use covered by the review, e.g., direct human food use and/or indirect human food use and/or animal feed and pet food use and will not affect its status for other uses not specified in the referenced regulation, pending a specific review of such other uses.

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (2) CHEMICAL PRESERVATIVES | | |
| * * * | * * * | * * * |
| Methylparaben (methyl *p*-hydroxybenzoate). | 0.1 percent | Affirmed as GRAS, § 121.104(g)(1). |
| * * * | * * * | * * * |
| Propylparaben (propyl *p*-hydroxybenzoate). | 0.1 percent | Affirmed as GRAS, § 121.104(g)(2). |
| * * * | * * * | * * * |

2. In Subpart B by adding a new § 121.104 to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

(a) The direct human food ingredients listed in this section have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed.

(b) Any use levels included in this section represent maximum use levels under current good manufacturing practices. This section does not authorize addition of any level of an ingredient to a specific food above the amount reasonably necessary to accomplish the intended effect.

(c) The listing of a food ingredient in this section does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the act.

(d) The listing of more than one ingredient to produce the same technological effect does not authorize use of a combination of two or more ingredients to accomplish the same technological effect in any one food at a combined level greater than the highest level permitted for one of the ingredients.

(e) If the Commissioner of Food and Drugs is aware of any prior sanction for use of an ingredient under conditions different from those proposed to be affirmed as GRAS, he will concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person

to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

(f) The label and labeling of the in- the ingredient for use in finished food shall bear, in addition to the other labelgredient and any intermediate mix of ing required by the act:

(1) The name of the ingredient.

(2) A statement of concentration of the ingredient in any intermediate mix.

(3) Adequate information to assure that the final food product may comply with any limitations prescribed for the ingredient.

(g) The following direct human food ingredients have been affirmed as GRAS:

(1) *Methylparaben.* (i) Methylparaben is the chemical methyl *p*-hydroxybenzoate. It is produced by the methanol esterification of *p*-hydroxybenzoic acid in the presence of sulfuric acid, with subsequent distillation.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(v) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

(2) *Propylparaben.* (i) Propylparaben is the chemical propyl *p*-hydroxybenzoate. It is produced by the *n*-propanol esterification of *p*-hydroxybenzoic acid in the presence of sulfuric acid, with subsequent distillation.

(ii) The ingredient meets the specifications of the Food Chemicals Codex 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(v) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

*Effective date.* This order is effective on October 23, 1974.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21186 Filed 9-20-74;8:45 am]

## PART 121—FOOD ADDITIVES

### Subpart H—Food Additives Permitted in Food for Human Consumption or in Contact with Food on an Interim Basis Pending Additional Study

MANNITOL; REMOVAL FROM GRAS STATUS AND ESTABLISHMENT OF INTERIM FOOD ADDITIVE REGULATION FOR DIRECT HUMAN FOOD USE

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20046), a proposal was published to revoke § 121.1115 of the food additive regulations and to amend proposed new § 121.104 to affirm mannitol as generally recognized as safe (GRAS) for use as a direct human food ingredient. These proposals were made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced Food and Drug Administration review of the safety of GRAS and prior-sanctioned food ingredients. Following the publication of these proposals, however, the Commissioner received information raising questions about the safety of this ingredient. The information now available to the Commissioner is sufficient to justify an interim food additive regulation for mannitol, pending additional study of this ingredient.

In accordance with provisions of § 121.40, relating to the affirmation of GRAS food ingredients, a copy of the Scientific Literature Review on mannitol, data on teratology experiments on this ingredient, and the report of the Select Committee on GRAS Substances (SCOGS) for mannitol have been made available for public review in the office of the Hearing Clerk, Food and Drug Administration. The same data and information have also been made available for public purchase through the facilities of the National Technical Information Service, as announced in notices of availability of information published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054) and April 17, 1974 (39 FR 13796).

In addition to the proposal to affirm the GRAS status of mannitol, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient, other than for the proposed conditions of use. Persons asserting such additional or extended uses, as a result of sanctions approved by the U.S. Department of Agriculture or the Food and Drug Administration, were requested to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. This request was also presented as an opportunity to have prior-sanctioned uses of mannitol approved by issuance of an appropriate regulation under Subpart E, substances for which prior sanctions have been granted, provided the prior-sanctioned use could be affirmed as safe on the basis of the information and data now available to the Commissioner. Notice was given that failure to submit proof of an applicable prior sanction in response to this request would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for mannitol were submitted in response to this notice. Therefore, in accordance with this notice, any right to assert a prior sanction for a use of mannitol under condtions different from those set out in the regulation has been waived.

Four comments were received concerning mannitol. Two of the comments were from manufacturers of the ingredient, one from an individual user firm, and one from a trade association.

The comments raised and the Commissioner's conclusions thereon are as follows:

1. All four comments took issue with the proposal to name finite levels of use as expressions of current good manufacturing practice.

This comment has been fully discussed in paragraph 1 of the preamble to the final order on sorbitol, published elsewhere in this issue of the FEDERAL REGISTER. Because of the need to establish an interim food additive regulation for mannitol, specific limitations on use have been imposed in this regulation.

2. Two comments requested recognition of specific good manufacturing practice levels for mannitol at levels higher than those proposed, and the recognition of additional functional effect uses.

The Commissioner concludes that present uses of mannitol should not be altered during the period that the interim food additive regulation is in effect. Accordingly, specific limitations on the use of the ingredient are imposed in this regulation.

Although the Commissioner is establishing an interim food additive regulation for mannitol, he agrees that some of the additional functional effects and the present higher levels of use of mannitol requested by these comments may properly be approved. Therefore, the levels for chewing gum (increased from 25 percent to 31 percent) and nonstandardized commercial jams and jellies (increased from no prior reported use to 30 percent) have been recognized in this regulation because they do not represent a significant increase in consumption. The Commissioner also agrees that the present

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

level of use for mannitol in pressed mints (98 percent) should be recognized as an exception to all other hard candy. However, the Commissioner concludes that increasing use of mannitol in all other food to 5 percent should not be allowed at this time because it would represent a potentially significant increase in present levels of consumption.

The Commissioner concludes that the maximum proposed good manufacturing practice limit for use of mannitol in hard candy was incorrectly listed as 33 percent. The correct maximum level has been affirmed as 5 percent for this use, with exception for pressed mints noted above, and has been corrected in this regulation.

3. Two comments opposed including the methods of manufacture in the regulation on the basis that safety is not dependent upon the method of manufacture, and that Food Chemicals Codex and the FAO/WHO Food Additives Committee have not considered process descriptions in their specifications or limitations. One of the comments claimed that the electrolytic reduction method of manufacture is no longer used and, although opposing inclusion of any manufacturing method in this regulation, stated that the current method of manufacture is the transition metal catalytic hydrogenation of sugar solutions containing glucose or fructose. Catalysts used in this method, as reported in the literature, include nickel, palladium, platinum, ruthenium, etc.

The Commissioner has fully discussed the need for identifying methods of manufacture in paragraph 3 of the preamble to the final order on the parabens, published elsewhere in this issue of the FEDERAL REGISTER.

After evaluating the possible residual contaminants resulting from the additional method of manufacture described in this comment, the Commissioner concludes that it may safely be used.

4. One comment reported on the results of test feeding sorbitol and mannitol separately to limited numbers of rats for two years, conducted after initiation of the GRAS review program. No significant adverse effects relating to sorbitol were described. However, the data for mannitol showed the occurrence of a significant incidence of benign thymomas, an abnormal growth of thymus gland tissue, in the female rats fed the test substance. The comment concluded that these preliminary results are likely to be of no significance because thymomas rarely occur in man, mannitol has never been reported as producing such response in previous animal studies, and the incidence of thymomas was not dose related. The manufacturer is repeating the studies with more animals, including various genetic strains and using suitable controls, to establish the validity of the data and to ascertain the relative metabolism in rats and in humans.

On the basis of the test results to date, the Commissioner is unable to affirm that the use of mannitol is GRAS at this time. However, the observations made and levels administered are such that the Commissioner can conclude that there will be no increased risk to the public health to continue existing levels of use under an interim food additive regulation for the time needed to complete and report the results of the new tests, including the periodic progress reports, required under § 121.4000(c)(2). Until the required studies have been completed and satisfactorily evaluated, mannitol will not be listed in § 121.104(g).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C., 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In § 121.101(d)(5) by revising the entry for "Mannitol" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (5) NUTRIENTS AND/OR DIETARY SUPPLEMENTS | | |
| * * * | * * * | * * * |
| Mannitol | | Interim food additive regulation, § 121.4005. |
| * * * | * * * | * * * |

* * * * * * *

§ 121.1115 [Revoked]

2. In subpart D—Food Additives Permitted in Food for Human Consumption by revoking § 121.1115.

3. In Subpart H by adding a new section to read as follows:

§ 121.4005 Mannitol.

(a) Mannitol is the chemical 1,2,3,4,5,6,-hexanehexol ($C_6H_{14}O_6$) a hexahydric alcohol, differing from sorbitol principally by having a different optical rotation. Mannitol is produced by the electrolytic reduction, or the transition metal catalytic hydrogenation, of sugar solutions containing glucose or fructose.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The ingredient is used as an anticaking agent and free-flow agent as defined in § 121.1(o)(1), formulation aid as defined in § 121.1(o)(14), firming agent as defined in § 121.1(o)(10), flavoring agent and adjuvant as defined in § 121.1(o)(12), lubricant and release agent as defined in § 121.1(o)(18), nutritive sweetener as defined in § 121.1(o)(21), processing aid as defined in § 121.1(o)(24), stabilizer and thickener as defined in § 121.1(o)(28), surface-finishing agent as defined in § 121.1(o)(30), and texturizer as defined in § 121.1(o)(32).

(d) The ingredient is used in food at levels not to exceed 98 percent in pressed mints and 5 percent in all other hard candy and cough drops as defined in § 121.1(n)(25), 31 percent in chewing gum as defined in § 121.1(n)(6), 40 percent in soft candy as defined in § 121.1(n)(38), 8 percent in confections and frostings as defined in § 121.1(n)(9), 30 percent in nonstandardized jams and jellies, commercial, as defined in § 121.1(n)(28), and at levels less than 2.5 percent in all other foods.

(e) The label and labeling of food whose reasonably foreseeable consumption may result in a daily ingestion of 20 grams of mannitol shall bear the statement "Excess consumption may have a laxative effect".

(f) In accordance with § 121.4000, adequate and appropriate feeding studies have been undertaken for this substance. Continued uses of this ingredient are contingent upon timely and adequate progress reports of such tests, and no indication of increased risk to public health during the test period.

(g) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

Any person who will be adversely affected by the foregoing order may at any time on or before October 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order is effective on September 23, 1974.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21185 Filed 9-20-74;8:45 am]

## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

SORBITOL; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENT

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20047), a proposal was published to revoke § 121.1053 of the food additive regulations and to amend proposed new § 121.104 to affirm sorbitol as generally recognized as safe (GRAS) for use as a direct human food ingredient. These proposals were made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced Food and Drug Administration review of the safety of GRAS and prior-sanctioned food ingredients. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing the final regulation establishing new § 121.104.

In accordance with provisions of § 121.40, relating to the affirmation of GRAS food ingredients, a copy of the Scientific Literature Review on sorbitol, data on the teratology experiments on this ingredient, and the report of the Select Committee on GRAS Substances (SCOGS) for sorbitol have been made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. The same data and information have also been made available for public purchase through the facilities of the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, as announced in notices of availability of information, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054) and April 17, 1974 (39 FR 13796).

In addition to the proposal to affirm the GRAS status of sorbitol, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient, other than for the proposed conditions of use. Persons asserting such additional or extended uses, as a result of sanctions approved by the U.S. Department of Agriculture or the Food and Drug Administration, were requested to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. This request was also presented as an opportunity to have prior-sanctioned uses of sorbitol approved by issuance of an appropriate regulation under Subpart E, substances for which prior sanctions have been granted, provided the prior-sanctioned use could be affirmed as safe on the basis of the information and data now available to the Commissioner. Notice was given that failure to submit proof of an applicable prior sanction in response to this request would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for sorbitol were submitted in response to this notice. Therefore, in accordance with this notice, any right to assert a prior sanction for a use of sorbitol under conditions different from those set out in this regulation has been waived.

Seven comments were received concerning sorbitol. One asked for a definition of "soft candy" and was answered by letter, which is on public display at the office of the Hearing Clerk. Five of the remaining six comments were from manufacturers or associations of users of the ingredient.

The comments raised and the Commissioner's conclusions thereon are as follows:

1. Four comments objected to the proposal to name finite levels of use, as expressions of current good manufacturing practice. Several cited, as support for their arguments, the SCOGS' conclusion that current and reasonably anticipated levels are safe.

The Commissioner advises that a GRAS substance may not properly be used in any and all amounts for any and all uses. General recognition of safety depends upon both current and reasonably anticipated levels of use, and the need for the substance at specified levels in order to achieve an appropriate function in the food. Accordingly, the Commissioner concludes that, although levels reflecting current good manufacturing practice (GMP) do not constitute specific tolerances, they do establish important guidelines on appropriate use of food ingredients. A future unanticipated increase in consumer exposure to any ingredient, as measured by these levels, may well require an evaluation of the need for and safety of such use. Thus, although the GMP levels are not rigid limitations, neither is the GRAS determination an authorization for use levels higher than reasonably required to accomplish the intended physical or other technical effect in any specific food.

2. Three representatives of associations requested recognition of specific GMP levels at levels higher than those proposed and recognition of additional functional effect uses. One user requested recognition of an additional use.

The Commissioner agrees that the additional functional effect uses and higher levels submitted as good manufacturing practices for chewing gum (75 percent), hard candy (99 percent), nonstandardized commercial jams and jellies (15 percent), and all other foods (12 percent) should be included in this regulation. Although these new levels of use may appear to represent high levels of use of sorbitol in these food categories, the Commissioner concludes that these permitted usage levels are within established safety guidelines for this ingredient. The Commissioner notes, however, that these levels do not authorize the use of this ingredient at any level higher than necessary to achieve the intended effect in a specific food, or in any standardized food in which the ingredient is not permitted.

3. Two comments opposed including the methods of manufacture in the regulation on the basis that safety is not dependent upon the method of manufacture and that the Food Chemicals Codex and the FAO/WHO Food Additives Committee have not considered process descriptions in their specifications or limitations. One of the comments stated that the electrolytic reduction method of manufacture is no longer used and, although opposing inclusion of any manufacturing method in this regulation, stated that the current method of manufacture is the transition metal catalytic hydrogenation of sugar solutions containing glucose or fructose. Catalysts used in this method, as reported in the literature, include nickel, palladium, ruthenium, etc.

The Commissioner has fully discussed the need for identifying methods of manufacture in paragraph 3 of the preamble to the final order on the parabens, published elsewhere in this issue of the FEDERAL REGISTER.

After evaluating the possible residual contaminants resulting from the additional method of manufacture for sorbitol described in the comment, the Commissioner concludes that it may safely be used.

4. One comment objected to the labeling statement in the proposal concerning the possible laxative effect from excess consumption of sorbitol. The comment suggested that this conclusion is inconsistent with the Select Committee's opinion on sorbitol, was not previously part of revoked § 121.1053, and is inconsistent with the FAO/WHO Food Additives "not limited" conclusion of acceptable use for sorbitol.

The Commissioner was aware of all these sources of information when this label statement was proposed for this regulation. After reviewing this information, the Commissioner further concludes that the most complete source of information, the Select Committee's report, may be properly interpreted as support for the proposed labeling. Although the Select Committee did not recommend this labeling statement and concluded that they were not generally concerned with this effect, it is apparent that this disclaimer of concern was based upon the Select Committee's calculated lower and "more probable" levels of average consumer consumption of sorbitol. The Select Committee, however, did admit concern for this effect in individuals that may select foods containing high levels of sorbitol, and for children of lower body weight consuming such foods. The Commissioner shares this concern for these persons and concludes that consumers using such foods should be alerted to their possible laxative effect by an appropriate label statement.

5. One comment reported on the results of feeding sorbitol and mannitol

separately to limited numbers of rats for two years, in tests conducted after initiation of the GRAS review program. No significant adverse effects relating to sorbitol were described. The mannitol study is reported elsewhere in this issue of the FEDERAL REGISTER.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In § 121.101(d)(5) by revising the entry for "Sorbitol" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (5) NUTRIENTS AND/OR DIETARY SUPPLEMENTS | | |
| * * * | * * * | * * * |
| Sorbitol | | Affirmed as GRAS, § 121.104(g)(4). |
| * * * | * * * | * * * |

* * * * * * *

2. In § 121.104 by adding a new paragraph (g)(4) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(4) *Sorbitol.* (i) Sorbitol is the chemical 1,2,3,4,5,6-hexanehexol ($C_6H_{14}O_6$), a hexahydric alcohol, differing from mannitol principally by having a different optical rotation. Sorbitol is produced by the electrolytic reduction, or the transition metal catalytic hydogenation of sugar solutions containing glucose or fructose.

(ii) The ingredient meets the specifications of the Food Chemicals Codex 2d Ed. (1972).[1]

(iii) The ingredient is used as an anticaking agent and free-flow agent as defined in § 121.1(o)(1), curing and pickling agent as defined in § 121.1(o)(5), drying agent as defined in § 121.1(o)(7), emulsifier and emulsifier salt as defined in § 121.1(o)(8), firming agent as defined in § 121.1(o)(10), flavoring agent and adjuvant as defined in § 121.1(o)(12), formulation aid as defined in § 121.1(o)(14), humectant as defined in § 121.1(o)(16), lubricant and release agent as defined in § 121.1(o)(18), nutritive sweetener as defined in § 121.1(o)(21), sequestrant as defined in § 121.1(o)(26), stabilizer and thickener as defined in § 121.1(o)(28), surface-finishing agent as defined in § 121.1(o)(30), and texturizer as defined in § 121.1(o)(32).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice in the use of sorbitol results in a maximum level of 99 percent in hard candy and cough drops as defined in § 121.1(n)(25), 75 percent in chewing gum as defined in § 121.1(n)(6), 98 percent in soft candy as defined in § 121.1(n)(38), 15 percent in nonstandardized jams and jellies, commercial, as defined in § 121.1(n)(28), 30 percent in baked goods and baking mixes as defined in §121.1(n)(1), 17 percent in frozen dairy desserts and mixes as defined in § 121.1(n)(20), and 12 percent in all other foods.

(v) The label and labeling of food whose reasonably forseeable consumption may result in a daily ingestion of 50 grams of sorbitol shall bear the statement: "Excess consumption may have a laxative effect."

(vi) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

**§ 121.1053 [Revoked]**

3. In Subpart D—Food Additives Permitted in Food for Human Consumption by revoking § 121.1053.

*Effective date.* This order is effective October 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissoner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21182 Filed 9-20-74;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. N.W., Washington, DC 20037.

## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives from the Requirement of Tolerances

LOCUST (CAROB) BEAN GUM; AFFIRMATION OF GRAS STATUS WITH LIMITATIONS AS DIRECT HUMAN FOOD INGREDIENT AND AFFIRMATION OF GRAS STATUS FOR INDIRECT HUMAN FOOD USE

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20041), a proposal was published to affirm the status of locust (carob) bean gum as generally recognized as safe (GRAS) as an indirect human food ingredient, establish a new § 121.105 under which all indirect human food ingredients affirmed as GRAS would be listed, and transfer the ingredient to a food additive regulation for direct human food use. The proposal was made on the initiative of the Commissioner of Food and Drugs, pursuant to the announced Food and Drug Administration review of the safety of GRAS and prior-sanctioned food ingredients.

The Commissioner has determined that the direct human food use of locust (carob) bean gum is properly affirmed as GRAS with specific limitations, rather than approved as safe under a food additive regulation. This affirmed GRAS status includes the same limitations of use for the ingredient that were proposed for the food additive regulation.

No comments were received on the proposal to establish § 121.105. Accordingly, it is being promulgated without change.

In accordance with provisions of § 121.40, relating to the affirmation of GRAS food ingredients, a copy of the Scientific Literature Review on locust (carob) bean gum, data on the teratology and mutagenesis experiments on the gum, and the report of the Select Committee on GRAS Substances (SCOGS) for locust (carob) bean gum has been made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. The same data and information have also been made available for public purchase through the facilities of the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151, as announced in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054) and April 17, 1974 (39 FR 13796).

In addition to the proposal to affirm the GRAS status of locust (carob) bean gum as an indirect ingredient and regulate its direct human food use, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for locust (carob) bean gum, other than for the proposed conditions of use. Persons asserting such additional or extended uses, as a result of sanctions approved by the U.S. Department of Agriculture or the Food and Drug Administration, were requested to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. This request was also presented as an opportunity to have prior-sanctioned uses of locust (carob) bean gum approved by issuance of an appropriate regulation under Subpart E, substances for which prior sanctions have been granted, provided the prior-sanctioned use could be affirmed as safe on the basis of the information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to this request would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for locust (carob) bean gum were submitted

in response to this notice. Therefore, in accordance with this notice, any right to assert a prior sanction for a use of locust (carob) bean gum under conditions different from those set out in the regulations has been waived.

Nine comments were received in response to the Commissioner's proposal and supporting data and information on locust (carob) bean gum. All of the comments were submitted by manufacturers of the gum or manufacturers of foods in which locust (carob) bean gum is used. A summary of the comments and the Commissioner's conclusions thereon are as follows:

1. Six comments expressed concern about the proposed labeling requirements for the ingredient and intermediate mixes containing the ingredient. The comments noted that the functionality variation of the gum as obtained from its various natural sources would make it very difficult to label the percentage of locust (carob) bean gum with any consistent accuracy. They also objected to this requirement from a formula disclosure standpoint, arguing that percentage composition disclosure would create a compositive hardship on current manufacturers of stabilizers containing locust (carbo) bean gum. Several of the comments favored supplying alternate information labeling to users of the ingredient, to assure that the final food products were in compliance with the maximum limitations prescribed by this regulation.

The Commissioner recognizes the validity of the arguments made in these comments, and the regulation exempts locust (carob) bean gum from the requirement in § 121.104(f)(2) for a statement of concentration of the ingredient in any intermediate mix.

2. Three comments objected to the proposed maximum usage levels in various ways. One cheese was reported as manufactured with 2.0 percent locust (carob) bean gum. One comment stated that § 19.775 provides for up to 0.8 percent gum addition to pasteurized processed cheese spread, and that the indicated maximum usage levels are weighted mean levels of addition for the indicated food categories. One comment expressed some uncertainty regarding the application of the maximum levels to both food product mixes and the same finished food products made from those mixes. Another comment requested clarification of the maximum usage level applicable to the case of a bakery shell containing filings, toppings, or icings, etc.

The Commissioner advises that the maximum usage levels cited in the proposal were, with one exception, the maximum usage levels reported to the National Academy of Sciences/National Research Council (NAS/NRC) through the 1972 "NAS/NRC Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe." This one exception was the case of 2.0 percent locust (carob) bean gum reported as used in one cheese product. Because the Food and Drug Administration had no knowledge of the identity of this manufacturer or this cheese product, it was asumed that this level of use was in error since all other reported levels of use for locust (carob) bean gum in cheeses were less than 0.5 percent. The maximum weighted mean level of use (0.75 percent), was therefore the maximum usage level reported in the proposal for this food category anticipating that any higher level of use would be reported through comment on the proposal. After requesting the NAS/NRC to attempt to validate the reported 2.0 percent use of locust (carob) bean gum in this cheese product, the Commissioner was advised by the manufacturer that this level was correctly assumed to be in error. The manufacturer confirmed that 0.8 percent of this gum would adequately meet his needs for this food product. The Commissioner therefore increases the maximum usage level for locust (carob) bean gum in cheeses to 0.8 percent, to accommodate its permitted usage in Part 19 of these regulations.

Maximum usage levels for the food categories in new § 121.104(g)(5) are maximum levels for foods "as served". Therefore food product mixes, contributing only a portion of the total weight to the prepared food product, may contain incrementally greater percentages of locust (carob) bean gum. This explanation has been added to the regulation to clarify this matter.

Exhibit 33B of the NAS/NRC report, "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe" (September 1972), contains a detailed classification list of all food products included in each general food category listed in § 121.1(n). This document, incorporated into § 121.1 (n) by reference, classified sweet rolls, coffee cakes, and pies and tarts as baked goods and baking mixes § 121.1(n)(1). Therefore, products thought to be mixed products by one comment have been included in the food category descriptions and are limited to 0.15 percent locust (carob) bean gum by this regulation.

3. Three comments objected to proposed § 121.105(f)(1)(ii), requiring locust (carob) bean gum to meet Food Chemicals Codex specifications for indirect GRAS human food use. These comments state that "technical grade" gum, containing a higher percentage of seed hull and embryo than food-grade locust (carob) bean gum, has been historically used for this purpose. Specifications for the "technical grade" gum were submitted.

After comparison of specifications for food grade and "technical grade" locust (carob) bean gum, the Commissioner agrees with these comments. The Commissioner concludes that the specifications submitted with these comments for "technical grade" locust (carob) bean gum must be supplemented by the Food Chemicals Codex limits of impurities for arsenic (3 parts per million), heavy metals (20 parts per million), and lead (10 parts per million), until other limits for these impurities can be established. Addition of these specifications will assure the continued safe use of locust (carob) bean gum as an indirect GRAS human food ingredient. Section 121.105 (f)(1) therefore is being amended in this order, to permit the use of "technical grade" locust (carob) bean gum, within the description and specifications adopted for this ingredient.

4. Three comments disagreed with the description of locust (carob) bean gum in the proposals. The comments suggested that carob bean gum is primarily known as locust bean gum in U.S. trade and industry and is described predominantly by this name in the Food Chemicals Codex. The comments stated that the product should also be described as "primarily the endosperm of the locust bean seed," as it contains considerable amounts of seed coat and germ. The comments also disagreed with the flavoring agent function as defined in § 121.1 (o)(12) designated for locust (carob) bean gum as a direct human food ingredient because the pod powder, not the seed gum, is used for this function.

The Commissioner accepts the suggestion that locust bean gum be adopted as the primary name. In order that no misunderstandings occur, the name used is being changed to "locust (carob) bean gum". The suggestion that the product description provide also for the presence of seed coat and germ has been accepted by defining the gum as proposed, i.e., "primarily the endosperm of the locust bean seed with lesser quantities of seed coat and germ."

The Commissioner concludes that the gum form of the locust (carob) bean is not appropriately considered as a flavoring agent. It has been indicated that only the ground whole bean and other fractions of the bean are correctly utilized for flavoring, and there is much confusion in the trade over the various locust (carob) bean products and their uses. Accordingly, the Commissioner is deleting the flavoring agent function from this regulation.

5. One comment submitted additional use levels for locust (carob) bean gum in gelatins, puddings, and fillings (0.75%); jams and jellies, commercial (0.75%); and reconstituted vegetable proteins (0.75%). These use levels were not reported in the 1972 NAS/NRC survey because they represent recent uses of locust (carob) bean gum in food products developed since that survey was conducted. Jam and jelly products and gelatin, pudding, and filling products are now reportedly marketed with these levels of gum, but the reconstituted vegetable protein application is still in product development stages.

After consideration of the overall consumer consumption of locust (carob) bean gum reported in the 1972 NAS/NRC survey, and the additional consumption which may result from these higher new

use levels of the gum, the Commissioner concludes that the requested use levels for locust (carob) bean gum are permissible in nonstandard jams and jellies, commercial, as defined in § 121.1(n)(28) and gelatins, puddings, and fillings as defined in § 121.1(n)(22). The requested use level for reconstituted vegetable proteins, as defined in § 121.1(n)(33) as plant protein products, is denied, however, because such use represents potentially expanded levels of consumption which cannot be evaluated by the Commissioner without data to indicate its anticipated use in the consumer diet. If such use data are made available to the Commissioner, and available safety data support the anticipated use, this new level will then be permitted.

6. One comment, representing the dairy industry, indicated that the proposed regulation was unnecessary for this industry. Dairy products are otherwise regulated at a maximum 0.5 percent total stabilizer, and no stabilizer formulation is composed entirely of locust (carob) bean gum; furthermore, the comment stated that any dairy product stabilized with as much as 0.5 percent locust (carob) bean gum would be an unprocessable disaster.

The Commissioner agrees with these remarks and concludes that the intent of the proposed regulation has been misunderstood. This regulation is intended to permit the Commissioner to regulate possible expanded uses of gum, until additional safety data justify such extended or expanded use and consumption. Thus the proposed maximum limits of use have been adopted in general terms as reported for the general food categories used in the 1972 NAS/NRC survey of the food industry. The Commissioner recognizes that good manufacturing practices and other regulations prohibit maximum limits of use for many food products, and this regulation should not be interpreted to encourage maximum use of locust (carob) bean gum. The levels permitted are only those levels reasonably necessary to accomplish the intended physical or technical effect in a particular food product.

In accordance with a notice published elsewhere in this issue of the FEDERAL REGISTER proposing to establish three types of regulations affirming the GRAS status of food ingredients, the Commissioner has determined that locust (carob) bean gum must be affirmed as GRAS with specific limitations for use as a direct human food ingredient. Although this determination does not alter the permissible uses of the gum that were proposed by the Commissioner, this change clearly indicates the Commissioner's conclusion that there are insufficient safety data to support a direct food additive regulation for this gum, as required by section 409 of the Federal Food, Drug, and Cosmetic Act. This determination is consistent with the Commissioner's conclusions that available safety data support the continued use of locust (carob) bean gum under present conditions of use, based upon its common use in food prior to 1958.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In § 121.101(d)(7), (h), and (i) by revising the entry for "Carob bean gum (locust bean gum)" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (7) STABILIZERS | | |
| Locust (carob) bean gum | | Affirmed as GRAS, § 121.104(g)(5). |
| * * * | * * * | * * * |

* * * * * * *

(h) * * *

Locust (carob) bean gum (affirmed as GRAS, § 121.105(f)(1)).

* * * * *

(i) * * *

Locust (carob) bean gum (affirmed as GRAS, § 121.105(f)(1)).

* * * * *

2. In § 121.104 by adding a new paragraph (g)(5) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(5) *Locust (carob) bean gum.* (i) Locust (carob) bean gum is primarily the macerated endosperm of the seed of the locust (carob) bean tree, *Ceratonia siliqua* (Linne) a leguminous evergreen tree, with lesser quantities of seed coat and germ.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used at levels not to exceed the following maximum levels:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food (as served) | Percent | Function |
|---|---|---|
| Baked goods and baking mixes, § 121.1(n)(1) | 0.15 | Stabilizer and thickener, § 121.1(o)(28) |
| Beverages and beverage bases, nonalcoholic, § 121.1(n)(3) | 0.25 | Do. |
| Cheeses, § 121.1(n)(5) | 0.8 | Do. |
| Gelatins, puddings, and fillings, § 121.1(n)(22) | 0.75 | Do. |
| Jams and jellies, commercial, § 121.1(n)(28) | 0.75 | Do. |
| All other food categories | 0.5 | Do. |

(iv) The requirement of § 121.104(f)(2) is optional.

(v) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

3. In Subpart B by adding a new section, as follows:

**§ 121.105 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).**

(a) The indirect human food ingredients listed in this section have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed.

(b) This section does not authorize direct addition of any food ingredient to a food. It authorizes only the use of these ingredients as indirect ingredients of food, through migration from their immediate wrapper, container, or other food-contact surface. Any migration or use levels included in this section represent maximum levels under current good manufacturing practice.

(c) The listing of a food ingredient in this section does not authorize the use of such substance for the purpose of adding the ingredient to the food through extraction from the food-contact surface.

(d) The listing of a food ingredient in this section does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the act.

(e) If the Commissioner of Food and Drugs is aware of any prior sanction for use of an ingredient under conditions different from those proposed to

be affirmed as GRAS, he will concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

(f) The following indirect human food ingredients have been affirmed as GRAS:

(1) *Locust (carob) bean gum* (technical grade). (i) Locust (carob) bean gum, technical grade, is primarily the macerated endosperm of the seed of the locust (carob) bean tree, *Ceratonia siliqua* (Linne), a leguminous evergreen tree, containing greater quantities of seed hull and embryo than locust (carob) bean gum meeting the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(ii) The technical grade gum meets the following specifications:

Galactomannans, not less than 50 percent.
Acid insoluble matter, not more than 17 percent.
Loss on drying, not more than 15 percent.
Protein, not more than 15 percent.
Ash, not more than 3 percent.
Arsenic (As), not more than 3 parts per million.
Heavy metals, not more than 20 parts per million.
Lead (Pb), not more than 10 parts per million.

(iii) The ingredient is used or intended for use as a constituent of food-contact surfaces.

(iv) The ingredient migrates to the packaged or wrapped food at levels not to exceed good manufacturing practices.

(v) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

Effective date: This order is effective on October 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21183 Filed 9–20–74;8:45 am]

## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives from the Requirements of Tolerances

L-CYSTEINE; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior-sanctioned through actions of the Food and Drug Administration or the U.S. Department of Agriculture before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration before using a food ingredient on the ground that it is GRAS for the use involved. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in food on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requires the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with the procedures established in §§ 121.40, Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104, has submitted a petition (GRASP 3G0010) requesting affirmation that the addition of L-cysteine to yeast-leavened bakery products, at a level not to exceed 0.009 part for each 100 parts flour for reducing the fermentation time and improving the dough, is GRAS.

A notice of the filing of this petition was published in the FEDERAL REGISTER of March 7, 1973 (38 FR 6214), and interested persons were notified therein of the opportunity to review the petition and to submit comments thereon to the Hearing Clerk, Food and Drug Administration. No comments were received.

L-Cysteine (L-2-amino-3-mercaptopropanoic acid) and L-cysteine monohydrochloride (L-2-amino-3-mercaptopropanoic acid monohydrochloride) are amino acids approved as safe for use for nutritive purposes in § 121.1002 of the food additive regulations.

L-Cysteine is in many foods as a constituent of the naturally occurring protein. Cysteine is generally converted to cystine prior to analysis in order to obtain a more accurate value for the total cystine plus cysteine content of the proteins. Values for the sulfur-containing amino acid content of foods are therefore generally given for methionine and cystine. The cystine content of wheat flour (12 percent protein) is approximately 0.32 percent. The addition of the proposed 90 parts per million (ppm) (0.009 percent) of cysteine would have no nutritional impact since it would not alter the amino acid balance significantly. The cysteine of the flour is an integral part of the protein and is not readily available to the yeast metabolic system until the protein is hydrolized by enzymatic action. The addition of this amount of L-cysteine (90 ppm) has been used for years in the "continuous mix" commercial production of yeast-leavened bakery products such as bread, rolls, buns, sweet goods, pizzas, and the like. The introduction of up to 90 ppm L-cysteine to doughs reduces the long fermentation step necessary in the batch mixing processes. This small quantity of L-cysteine serves as an essential nutrient for the yeast in the early stages of yeast fermentation. In addition, it improves the machinability, flavor, and texture of yeast leavened bakery products made by the continuous mix process.

This use of L-cysteine is specifically permitted in 21 CFR 17.1(a)(16) as an optional ingredient in standardized bakery products. Since this use is in-

tended to produce only a technical effect and has no nutritional implications, it is not subject to the requirements of § 121.1002, which governs the use of amino acids for nutrient purposes.

The Commissioner finds that:

1. L-Cysteine has been added to yeast-leavened bakery products in these amounts for many years and is effective for this purpose.

2. The addition of this amount of L-cysteine to bakery products will not increase significantly the consumption of L-cysteine from naturally occurring protein.

3. This level of L-cysteine is generally recognized as safe.

This regulation is issued prior to a general evaluation of use of this ingredient and is subject to reconsideration when general evaluation is undertaken. Other uses of L-cysteine for a functional effect may also be GRAS.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in § 121.104 by adding new paragraph (g) (22) and (23) as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(22) *L-Cysteine.* (i) L-Cysteine is the chemical L-2-amino-3-mercaptopropanoic acid ($C_3H_7O_2NS$).

(ii) The ingredient meets the appropriate part of the specifications set forth in the Food Chemicals Codex, 2d Ed. (1972) [1] for L-cysteine monohydrochloride.

(iii) The ingredient is used to supply up to 0.009 part of total L-cysteine per 100 parts of flour in dough as a dough strengthener as defined in § 121.1(o)(6) in yeast-leavened baked goods and baking mixes as defined in § 121.1(n)(1).

(iv) This regulation is issued prior to a general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

(23) *L-Cysteine monohydrochloride.* (i) L-Cysteine monohydrochloride is the chemical L-2-amino-3-mercaptopropanoic acid monohydrochloride monohydrate ($C_3H_7O_2NS\ HCl\ H_2O$).

(ii) The ingredient meets the specifications of Food Chemicals Codex, 2d Ed. (1972).[1]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(iii) The ingredient is used to supply up to 0.009 part of total L-cysteine per 100 parts of flour in dough as a dough strengthener as defined in § 121.1(o)(6) in yeast-leavened baked goods and baking mixes as defined in § 121.1(n)(1).

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

(iv) This regulation is issued prior to a general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

*Effective date.* This order shall be effective October 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

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## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives from the Requirement of Tolerances

ETHYL ALCOHOL; AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENT

The Food and Drug Administration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior-sanctioned through actions of the Food and Drug Administration or the U.S. Department of Agriculture before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration before using a food ingredient on the ground that it is GRAS for the use involved. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in food on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requires the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with the procedures established in § 121.40, Fairmont Foods, 3201 Farnam Street, P.O. Box 1191, Omaha, NB 68131, has submitted a petition (GRASP 3G0028) requesting affirmation that the use of a 95 percent ethyl alcohol (ethanol) spray, at concentrations of up to 2 percent of the product weight, on manufactured pre-baked pizza crusts to extend the handling and shelf life thereof through inhibition of the growth of microorganisms, is GRAS.

A notice of the filing of this petition was published in the FEDERAL REGISTER of July 24, 1973 (38 FR 19851) and interested persons were notified therein of the opportunity to review the petition and to submit comments thereon to the Hearing Clerk, Food and Drug Administration. No comments were received.

The petitioner intends to spray 95 percent ethanol which meets the specifications of the Food Chemicals Codex, 2d Ed., 1972,[1] and the formula requirements of 26 CFR Part 212, on the tops and bottoms of cooled pre-baked pizza crusts prior to packaging in plastic bags for shipment to restaurants where the toppings are applied and the pizza is cooked. Shipments to firms making frozen pizzas for home cooking are also contemplated.

The petition presents data which demonstrate that pizza crusts, so treated, have a shelf life at room temperature of 4 to 5 times as long as untreated crusts. Refrigerated storage further enhances the shelf life. The data include both visual observation and laboratory test results to demonstrate inhibition of microbial growth.

The petitioner's data show that residual ethyl alcohol concentration on the finished baked pizza with the treated crusts is essentially equal to that level normally found in yeast leavened baked goods. The effect of ethyl alcohol on bacteria is well recognized. Ethyl alcohol is a component of yeast-leavened baked goods up to a concentration of 0.5 percent and is used as the solvent vehicle for many flavor substances added to foods, e.g., lemon extract, vanilla extract, etc., and such uses pose no risk to the public health. The quantity of alcohol remaining after cooking is quite small.

The Commissioner finds that:

1. The use requested is effective.

2. Ethyl alcohol residues remaining on the treated pizza crusts as consumed will not increase significantly the level of ethyl alcohol ordinarily consumed from yeast-leavened bakery products and from the flavor substances that use ethyl alcohol as a solvent vehicle.

3. This level of ethyl alcohol is generally recognized as safe.

This regulation is issued prior to a general evaluation of use of this ingredient and is subject to reconsideration when general evaluation is undertaken. Other uses of ethyl alcohol may also be GRAS.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended in § 121.104 by adding a new paragraph (g) (24) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(24) *Ethyl alcohol.* (i) Ethyl alcohol (ethanol) is the chemical $C_2H_5OH$.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972)[1] and the formula requirements of 26 CFR Part 212.

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o) (2) on pizza crusts prior to final baking at levels not to exceed 2.0 percent by product weight.

(iv) This regulation is issued prior to general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

*Effective date.* This order shall be effective on October 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21191 Filed 9-20-74;8:45 am]

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## PART 121—FOOD ADDITIVES

### Subpart B—Exemption of Certain Food Additives From the Requirement of Tolerances

### Subpart D—Food Additives Permitted in Food for Human Consumption

BAKERS YEAST EXTRACT, AFFIRMATION OF GRAS STATUS AS DIRECT HUMAN FOOD INGREDIENT; BAKERS YEAST GLYCAN AND BAKERS YEAST PROTEIN

The Food and Drug Administration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior-sanctioned through action of the Food and Drug Administration or the U.S. Department of Agriculture taken before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration before using a food ingredient on the ground that it is GRAS for the use involved. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in food on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requires the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with the procedures established in § 121.40, Anheuser-Busch, Inc., St. Louis, Mo. 63118, submitted a petition (GRASP 3G0025) requesting affirmation that the use of fractions of commercial bakers yeast identified as "bakers yeast protein," "bakers yeast glycan," and "bakers yeast extract" as food and in food is GRAS. Each fraction has been considered separately.

A notice of the filing of this petition was published in the FEDERAL REGISTER of June 12, 1973 (38 FR 15471), and interested persons were notified therein of the opportunity to review the petition and submit comments thereon to the Hearing Clerk, Food and Drug Administration. No comments were received.

Various yeasts have been used in foods for centuries, and their use in baking and brewing is known to have been well established among the Egyptians as early as several centuries B.C. The yeast which has been most used to date is known as "bakers yeast." This name includes any one of several selected strains of *Saccharomyces cerevisiae*. Extended periods of human consumption of as much as 100 grams per day of yeast cake, dried yeast, or autolyzed yeast have been reported without observed adverse effects. Overindulgence with viable yeasts has been associated with intestinal disturbances.

Commercial bakers yeast is normally produced as described in "Federal Specifications—Yeast EE–Y–131D," a copy of which is on public display in the office of the Hearing Clerk, and consists principally of whole yeast cells. The petitioner processes bakers yeast to produce a mechanical rupture of the yeast cells that permits separation of three components of yeast cells. The cell walls are recovered by centrifugation, washed and dried as "bakers yeast glycan." Further processing produces an insoluble protein portion called "bakers yeast protein" and a soluble cellular portion called "bakers yeast extract."

Bakers yeast glycan is the comminuted, washed, pasteurized, and dried yeast cell walls. It is composed principally of long chain carbohydrates, 53 percent glycans and 35 percent mannans, on a dry solids basis. Its intended use is primarily as a thickening agent. If used at levels of 5 percent in the designated products, it is not expected significantly to contribute to caloric intake. Its caloric value is reported as 1.81 calories per gram. The petitioner claims that it reduces the need for gums and other additives, is compatible with oil-containing foods, and would substitute for vegetable gums in many foods. Several such uses are requested by the petitioner.

Two short term feeding studies on bakers yeast glycan have been completed by the petitioner. The first was a 1-week study with rats on a diet of 10 percent bakers yeast glycan. The second was a 90-day feeding study with rats at 5, 10, 15, and 20 percent dietary levels of bakers yeast glycan. A limited study was conducted with four human subjects ingesting 10 to 15 grams of bakers yeast glycan per day for 90 days. None of the completed studies indicated any undesirable effects.

Considerable information exists establishing the effects on man and animals of the ingestion of whole yeast cells and autolyzed yeast cells. However, the Commissioner is not aware of any published

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

data on the effects of feeding the cell walls of yeast in quantities significantly greater than the number of yeast cells contained in a normal diet.

The data presented in the petition are adequate to support the conclusion that use of bakers yeast glycan in food is safe if restricted to an amount approximating the quantity of yeast cells ingested in a normal diet. The Commissioner concludes that use of bakers yeast glycan is safe if limited to 5 percent or less in nonstandardized salad dressings, which was one of the petition's requests. This use would not significantly increase a person's dietary intake of bakers yeast glycan over normal ingestion of yeast cells consumed in other foods. Use of bakers yeast glycan at 5 percent concentration in the other requested food categories, such as in milk shakes and instant puddings, would significantly increase the number of yeast cell walls in the diet. Therefore, the Commissioner is promulgating a food additive regulation permitting use only in nonstandardized salad dressings.

At the request of the Food and Drug Administration, the petitioner initiated in April 1974 a modified sub-chronic feeding study with rats to run for at least 6 months. Additional uses of bakers yeast glycan may be approved after evaluation of the data resulting from this study.

Bakers yeast protein is the insoluble protein remaining after removal of the cell walls and is said to account for about 40 percent of the solids, 64 percent of the protein, 94 percent of the lipid, 8 percent of the nucleic acid, and 14 percent of the carbohydrate of the original yeast cells. The data provided by the petitioner indicate a significant zinc content because of use of zinc salts to control nucleic acid content and increase the production of the bakers yeast. Bakers yeast protein is intended for use in food as a source of protein.

The data provided by the petitioner are adequate to show that bakers yeast protein may be safely used in food if the maximum nucleic acid content is limited to 2 percent and the maximum zinc content to 500 parts per million (ppm) and the levels of other heavy metals and of viable microbes are acceptably low. The Commissioner has therefore specified such levels in the regulations.

The petitioner calls attention to the recent clinical nutritional research which establishes that the average human should ingest no more than 2 grams of nucleic acid per day. The work of J. C. Edozien, et al., is cited, and a copy of the publication is included in the petition as a basis for this conclusion. The petition suggests a limitation of not more than 2 percent nucleic acid in bakers yeast protein. In regard to the acceptable level of 2 percent nucleic acid, the petition indicates that the content of bakers yeast protein in practice is more generally about 0.7 percent. The Commissioner concludes that, with reasonably foreseeable uses of bakers yeast protein, the requirement of not more than 2 percent nucleic acid will protect against the ingestion of more than 2 grams per day of nucleic acid from this and other sources.

If all or nearly all of the protein in a diet comes from a single source, adverse effects frequently occur. This fact is well understood by nutritionists working with many species of animals, including man. However, the human diet, especially in the United States, is generally of such wide variation that few, if any, individuals are dependent on a sole source of protein in their diet. It is anticipated that bakers yeast protein will constitute no more than 30 to 50 percent of the total dietary protein for humans under normal conditions. These levels of consumption are safe. Increased uses could be permitted only after well-controlled studies have confirmed the safety of such uses.

Bakers yeast extract is that 40 percent of the yeast which solubilizes and remains after removal of the glycan and the protein. It is claimed that this extract, when processed under appropriate conditions, yields flavoring substances of various flavors. Bakers yeast extract produced by this process is said to account for about 40 percent of the solids, 32 percent of the protein, 87 percent of the nuclei acid, 3 percent of the lipid, and 33 percent of the carbohydrates in the original yeast. The extract itself is generally composed of 35 to 40 percent protein, 9 to 12 percent nucleic acids, 25 to 30 percent carbohydrates, 25 to 30 percent ash, and less than 1 percent each of lipids and crude fibers. Bakers yeast extract appears to differ in no essential characteristics from the yeast extracts that have been used as flavors for a number of years.

Most uses of bakers yeast extracts are at concentrations of 1 to 2.5 percent. A few uses are as high as 5 percent in the food. Even at a 5-percent level, a person would have to ingest daily 400 grams of a food flavored with bakers yeast extract to approach the critical level of nucleic acid ingestion. This level is highly unlikely for a single day's intake, let alone for an extended period of time.

The Commissioner finds that:

1. No evidence was presented that there exist published studies on the safety of the glycan and protein fractions of yeast that are subjects of the petition that are available to scientists generally, or that there is common knowledge about the safety of these products throughout the scientific community knowledgeable about the safety of food ingredients. The petition includes unpublished data to establish the safety of the proposed uses of the glycan and the protein under prescribed limitations.

2. The individual fractions of the yeast cell as isolated yeast cell walls and isolated insoluble protein were not commonly used in foods in the United States prior to January 1, 1958.

3. Bakers yeast extracts have been widely consumed in reasonable amounts in the United States for years without evidence of significant adverse effects.

4. The requested uses for bakers yeast extract and bakers yeast protein, and the requested use for bakers yeast glycan in nonstandardized salad dressings are functional.

5. The requested uses for bakers yeast extract and bakers yeast protein, and the requested use for bakers yeast glycan in nonstandardized salad dressings are safe.

Accordingly, the Commissioner concludes, in accordance with § 121.40(c) (5), that there is a lack of convincing evidence that bakers yeast glycan and bakers yeast protein are GRAS. They are therefore food additives, subject to section 409 of the act. The Commissioner also concludes that the uses of bakers yeast extract set forth in the petition are GRAS.

The Commissioner further advises that the petition submitted for GRAS affirmation with respect to the glycan and protein fractions has been evaluated also as a food additive petition for these two yeast fractions in accordance with §§ 121.41(c) and 121.51. The Commissioner finds that the data provided establish the conditions of safe use for these two additives and concludes that the request for GRAS affirmation of bakers yeast glycan and bakers yeast protein be denied, the request for GRAS affirmation of bakers yeast extract as a flavoring agent be granted, and that food additive regulations be established for bakers yeast glycan and bakers yeast protein.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended as follows:

1. In § 121.104 by adding new paragraph (g)(25) to read as follows:

§ 121.104 **Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(25) *Bakers yeast extract.* (i) Bakers yeast extract is the food ingredient resulting from concentration of the solubles of mechanically ruptured cells of a selected strain of yeast, *Saccharomyces cerevisiae.* It may be concentrated or dried.

(ii) The ingredient meets the following specifications on a dry weight basis: Less than 0.4 part per million (ppm) arsenic, 0.13 ppm cadmium, 0.2 ppm lead, 0.05 ppm mercury, 0.09 ppm selenium, and 10 ppm zinc.

(iii) The viable microbial content of the finished ingredient as a concentrate or dry material is:

(*a*) Less than 10,000 organisms/gram by aerobic plate count.

(*b*) Less than 10 yeasts and molds/gram.

(*c*) Negative for *Salmonella, E. coli,* coagulase positive *Staphylococci, Clostridium perfringens, Clostridium botulinum,* or any other recognized microbial pathogen or any harmful microbial toxin.

(iv) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o)(12) at a level not to exceed 5 percent in food.

(v) This regulation is issued prior to general evalution of use of this ingredient in order to affirm as GRAS the specific use named.

2. In Subpart D by adding two new sections to read as follows:

§ 121.1262 Bakers yeast glycan.

Bakers yeast glycan may be safely used in food in accordance with the following conditions:

(a) Bakers yeast glycan is the comminuted, washed, pasteurized, and dried cell walls of the yeast, *Saccharomyces cerevisiae*. It is composed principally of long chain carbohydrates, not less than 85 percent on a dry solids basis. The carbohydrate is composed of glycan and mannan units in approximately a 2:1 ratio.

(b) The additive meets the following specifications on a dry weight basis: Less than 0.4 part per million (ppm) arsenic, 0.13 ppm cadmium, 0.2 ppm lead, 0.05 ppm mercury, 0.09 ppm selenium, and 10 ppm zinc.

(c) The viable microbial content of the finished ingredient is:

(1) Less than 10,000 organisms/gram by aerobic plate count.

(2) Less than 10 yeasts and molds/gram.

(3) Negative for *Salmonella, E. coli*, coagulase positive *Staphylococci, Clostridium perfringens, Clostridium botulinum*, or any other recognized microbial pathogen or any harmful microbial toxin.

(d) The additive is used or intended for use only in salad dressings as an emulsifier and emulsifier salt as defined in § 121.1(o)(8), stabilizer and thickener as defined in § 121.1(o)(28), or texturizer as defined in § 121.1(o)(32) at a maximum concentration of 5 percent.

(e) The label and labeling of the ingredient shall bear adequate directions to assure that use of the ingredient complies with this regulation.

§ 121.1263 Bakers yeast protein.

Bakers yeast protein may be safely used in food in accordance with the following conditions:

(a) Bakers yeast protein is the insoluble proteinaceous material remaining after the mechanical repture of yeast cells of *Saccharomyces cerevisiae* and removal of whole cell walls by centrifugation and separation of soluble cellular materials.

(b) The additive meets the following specifications on a dry weight basis:

(1) Zinc salts less than 500 parts per million (ppm) as zinc.

(2) Nucleic acid less than 2 percent.

(3) Less than 0.3 ppm arsenic, 0.1 ppm cadmium, 0.4 ppm lead, 0.05 ppm mercury, and 0.3 ppm selenium.

(c) The viable microbial content of the finished ingredient is:

(1) Less than 10,000 organisms/gram by aerobic plate count.

(2) Less than 10 yeasts and molds/gram.

(3) Negative for *Salmonella, E. coli*, coagulase positive *Staphylococci, Clostridium perfringens, Clostridium botulinum*, or any other recognized microbial pathogen or any harmful microbial toxin.

(d) The ingredient is used in food as a nutrient supplement as defined in § 121.1(o)(20).

Any person who will be adversely affected by § 121.1262 or § 121.1263 may at any time on or before October 23, 1974, file with the Hearing Clerk, Food and Drug Administration Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable, and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Any objections received may be seen in the above office during working hours, Monday through Friday.

*Effective date.* Section 121.104(g)(25) shall be effective October 23, 1974. Sections 121.1262 and 121.1263 shall be effective September 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21187 Filed 9-20-74;8:45 am]

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## PART 121—FOOD ADDITIVES

### Subpart D—Food Additives Permitted in Food for Human Consumption

CITRIC ACID

The Food and Drug Administration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior sanctioned through actions of the Food and Drug Administration or the U.S. Department of Agriculture before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration, before using a food ingredient on the ground that it is GRAS for the use involved. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in foods on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requires the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except those traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with the procedures described in § 121.40, Pfizer, Inc., 235 East 42d St., New York, NY 10017, submitted a petition (GRASP 3G0014) proposing affirmation that citric acid produced by a newly developed process involving yeast fermentation of straight chain paraffin hydrocarbon is GRAS for use in food.

A notice of the filing of this petition was published in the FEDERAL REGISTER of July 24, 1973 (38 FR 19852), and interested persons were notified therein of their opportunity to review the petition and to submit comments to the Hearing Clerk, Food and Drug Administration. One comment was received, and is discussed below.

Citric acid has been an article of commerce of considerable volume since the turn of the century. Originally produced by concentration of the juice of citrus fruit, principally lime and lemon, increasing demands upon the production led to the discovery and introduction of a process of production utilizing enzyme fermentation of carbohydrates about 1923. By the end of World War II, production in the United States was about 26 million pounds. In 1970 the reported use in foods alone reached nearly 36 million pounds.

The scientific literature indicates that most of the citric acid of commerce is presently produced by fermentation processes utilizing the enzyme systems of selected strains of *Aspergillus niger* in the conversion into citric acid of carbohydrates such as dextrose, sucrose, and by-products of sugar production. These fungal fermentations generally produce other organic compounds in appreciable quantities under certain conditions. However, the physical parameters of the

fermentation processes can be adjusted to minimize the production of undesirable metabolites. Consideration of these enzyme systems is included in the review, now being undertaken in the Food and Drug Administration, of a petition (GRASP 3G0016) submitted by the Ad Hoc Enzyme Committee.

The petition has presented adequate data to demonstrate the feasibility of food-grade citric acid production by fermentation of *n*-paraffin with a selected strain of the yeast *Candida lipolytica*. The petition has been filed as provided for in § 121.40 and carefully evaluated in accordance with the criteria established for GRAS substances.

The citric acid which is the subject of this GRAS petition is produced by a new enzymatic process from purified normal alkanes (petroleum). The organism used in the new fermentation process for production does not have a history of use in food production. The petitioner describes the process for production of citric acid through the action of a selected strain of yeast, *Candida lipolytica*, on a product of the petro-chemical industry, *n*-paraffin.

The single comment received in response to the notice of filing raised several issues. These are summarized with the Commissioner's comments, as follows:

1. The comment stated that the data provided are insufficient to establish the safety of citric acid from the new process. Extensive biological testing is necessary because of the possible presence of unknown impurities, including polycyclic hydrocarbons and isocitric acid.

The Commissioner concludes that it is well established that citric acid produced by microbial fermentation contains less isocitric acid as a contaminant than a similar product derived from natural citrus juices. In fact, this difference has been suggested as a means of identifying adulteration of natural products such as orange juice. The natural presence of small amounts of isocitric acid in citrus fruits has produced no adverse toxicological effects and the somewhat lower levels in the citric acid produced by this new process raise no concern. A specification that polynuclear aromatic hydrocarbons (PNAs) shall be absent from food grade citric acid is included to assure that these impurities are not present at the levels of 2 parts per billion (ppb), the level at which PNA impurities can be detected in any food ingredient using present methodology. Under these circumstances, no added assurance of safety would be expected by the extensive biological tests suggested by the comment.

2. The comment asserts that the policy of the Food and Drug Administration is that a GRAS substance made from new raw materials and/or by new processes is treated as a new product.

The Commissioner advises that the purpose of the Food Additives Amendment is to assure the safety of the food supply. The definition of a "food additive" in section 201(s) of the act provides that a food ingredient may be determined to be GRAS on the basis of scientific procedures. Thus, he concludes that there is no legal impediment to a determination of GRAS status for citric acid produced by this new process.

The Commissioner further concludes that, if a product manufactured by a new process is identical with an existing GRAS substance as far as adequate specifications can assure, the end product may be considered GRAS. If the new process suggests the need for additional specifications to maintain a food grade, these should be applied to such GRAS substances produced by any process. If the new process suggests the need for regulation of the process to assure that significant alteration of the product does not occur when utilized by other manufacturers, a regulation covering the process will be promulgated, as is done in the instant case.

3. The comment stated that the analytical techniques included in the petition are not adequate to detect impurities present in small amounts.

The Commissioner recognizes that the analytical techniques criticized by the comment as not adequate for the detection of small amounts of impurities in the citric acid are not adequate for this purpose. These analyses were submitted for purposes of showing the similarity of this citric acid with that conventionally produced and no claims to detect impurities were made for these methods.

The Commissioner has included in this regulation an analytical method to assure the absence of polynuclear aromatic hydrocarbons (PNA's). Such assurance is required because of the recognized carcinogenic potential of PNA's. The method adopted herein will detect PNAs present in citric acid at levels greater than 2 ppb. The Commissioner concludes that this level of sensitivity, which is applicable to the detection of PNA's in all food, is sufficiently sensitive using the Mantel-Bryan method of determining an appropriately sensitive method.

4. The comment contended that the social and economic advantages claimed for the process are not valid.

The Commissioner advises that social and economic issues are not a part of the consideration given to evaluating the safe conditions of use for a good ingredient.

The petition requests GRAS affirmation of citric acid derived from yeast fermentation of petroleum hydrocarbons. There is no reason to consider the new citric acid different from food-grade citric acid prepared by other processes, if the existing Food Chemicals Codex specifications are supplemented to include a specification assuring the absence of polynuclear hydrocarbons. Citric acid is the subject of a Scientific Literature Review that will be evaluated in the current GRAS review program. Therefore, pursuant to the provision of § 121.40(c)(1), citric acid produced by this method is not eligible for GRAS affirmation by petition, and that request in the petition is denied. Pending the evaluation of the GRAS status of food-grade citric acid, the Food and Drug Administration will consider citric acid produced by this method, meeting the specifications of the Food Chemicals Codex and free from PNA's when tested by the prescribed method, in the same category as other citric acid.

The petition also requires consideration of the status and conditions of safe use of the new process, utilizing the action of *Candida lipolytica* on a petroleum substrate. The Commissioner finds that:

1. No evidence was presented that there exist published studies on the safety of this fermentation process that are available to scientists generally, or that there is common knowledge about the safety of this enzyme system throughout the scientific community knowledgeable about the safety of food ingredients. The petitioner presents unpublished data to establish the safety of the proposed use of the enzyme system of this organism in the production of citric acid.

2. The enzyme system was not widely used in food production in the United States prior to January 1, 1958.

3. The use requested is effective.

4. The use requested is safe.

5. Information is not presented to permit an adequate evaluation of the safety of the fermentation residue as a byproduct for animal feed use.

Accordingly, the Commissioner concludes, in accordance with § 121.40(c)(5), that there is a lack of convincing evidence that the organism is GRAS. The enzyme system is therefore a food additive, subject to section 409 of the act.

The Commissioner advises that the petition submitted for GRAS affirmation has been evaluated also as a food additive petition in accordance with §§ 121.41(c) and 121.51. The Commissioner finds that the data establish the conditions of safe use for the food additive enzyme system of the parent microorganism *Candida lipolytica* for the production of food-grade citric acid. This action does not authorize use of the fermentation residue as a byproduct for inclusion in animal feeds. The latter use is properly the subject of a separate petition for feed additive use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner concludes that the request for GRAS affirmation of citric acid produced by this process be denied, and that Part 121 be amended by adding to Subpart D a new § 121.1259 to read as follows:

**§ 121.1259 Candida lipolytica.**

The food additive *Candida lipolytica* may be safely used as the organism for fermentation production of citric acid in accordance with the following conditions:

(a) The food additive is the enzyme system of the organism *Candida lipolytica* and its concomitant metabolites produced during the fermentation process.

(b) (1) The nonpathogenic organism is classified as follows:

Class: Deuteromycetes.
Order: Moniliales.
Family: Cryptococcaceae.
Genus: *Candida*.
Species: *lipolytica*.

(2) The taxonomic characteristics of the culture agree in the essentials with the standard description for *Candida lipolytica* variety lipolytica, listed in *The Yeasts—A Taxonomic Study*, 2d Ed. (1970) by Jacomina Lodder.

(c) The additive is used or intended for use as a pure culture in the fermentation process for the production of citric acid from purified normal alkanes.

(d) The additive is so used that the citric acid produced conforms to the specifications of the Food Chemicals Codex, 2d Ed. (1972)[1] and meet the following ultraviolet absorbance limits when subjected to the analytical procedure described in this paragraph:

Ultraviolet absorbance per centimeter path length:

| | *Maximum* |
|---|---|
| 280 to 289 millimicrons | 0.25 |
| 290 to 299 millimicrons | 0.20 |
| 300 to 359 millimicrons | 0.13 |
| 360 to 400 millimicrons | 0.03 |

ANALYTICAL PROCEDURE FOR CITRIC ACID

GENERAL INSTRUCTIONS

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of citric acid samples in handling is essential to assure absence of any extraneous material arising from inadequate packaging. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

1. Aluminum foil, oil free.

2. Separatory funnels, 500-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

3. Chromatographic tubes: (a) 80-millimeter ID x 900-millimeter length equipped with tetrafluoroethylene polymer stopcock and course fritted disk; (b) 18-millimeter ID x 300-millimeter length equipped with tetrafluoroethylene polymer stopcock.

4. Rotary vacuum evaporator, Buchi or equivalent.

5. Spectrophotometer—Spectral range 250–400 nanometers with spectral slit width of 2 nanometers or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Wavelength repeatability, ±0.02 nanometer.

Wavelength accuracy, ±1.0 nanometer.

The spectrophotometer is equipped with matched 1 centimeter path length quartz microcuvettes with 0.5-milliliter volume capacity.

6. Vacuum oven, minimum inside dimensions: 200 mm x 200 mm x 300 mm deep.

REAGENTS AND MATERIALS

*Organic solvents.* All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The methyl alcohol, isooctane, benzene, hexane and 1,2-dichloroethane designated in the list following this paragraph shall pass the following test:

The specified quantity of solvent is added to a 250-milliliter round bottom flask containing 0.5 milliliter of purified *n*-hexadecane and evaporated on the rotary evaporator at 45° C to constant volume. Six milliliters of purified isooctane are added to this residue and evaporated under the same conditions as above for 5 minutes. Determine the absorbance of the residue compared to purified *n*-hexadecane as reference. The absorbance of the solution of the solvent residue shall not exceed 0.03 per centimeter path length between 280 and 299 nanometers and 0.01 per centimeter path length between 300 and 400 nanometers.

*Methyl alcohol, A.C.S. reagent grade.* Use 100 milliliters for the test described in the preceding paragraph. If necessary, methyl alcohol may be purified by distillation through a Virgreaux column discarding the first and last ten percent of the distillate or otherwise.

*Benzene, spectrograde (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent).* Use 80 milliliters for the test. If necessary, benzene may be purified by distillation or otherwise.

*Isooctane (2,2,4-trimethylpentane).* Use 100 milliliters for the test. If necessary, isooctane may be purified by passage through a column of activated silica gel, distillation or otherwise.

*Hexane, spectrograde (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent).* Use 100 milliliters for the test. If necessary, hexane may be purified by distillation or otherwise.

*1,2-Dichloroethane, spectrograde (Matheson Laboratories, Inc., Muskegon, Mich., or or equivalent).* Use 100 milliliters for the test. If necessary, 1,2-dichloroethane may be purified by distillation or otherwise.

ELUTING MIXTURES

1. *10 percent 1,2-dichloroethane in hexane.* Prepare by mixing the purified solvents in the volume ratio of 1 part of 1,2-dichloroethane to 9 parts of hexane.

2. *40 percent benzene in hexane.* Prepare by mixing the purified solvents in the volume ratio of 4 parts of benzene to 6 parts of hexane.

*n-Hexadecane, 99 percent olefin-free.* Determine the absorbance compared to isooctane as reference. The absorbance per centimeter path length shall not exceed 0.00 in the range of 280–400 nanometers. If necessary, *n*-hexadecane may be purified by percolation through activated silica gel, distillation or otherwise.

*Silica gel, 28–200 mesh (Grade 12, Davison Chemical Co., Baltimore, MD, or equivalent).* Activate as follows: Slurry 900 grams of silica gel reagent with 2 liters of purified water in a 3-liter beaker. Cool the mixture and pour into a 80 x 900 chromatographic column with coarse fritted disc. Drain the water, wash with an additional 6 liters of purified water and wash with 3,600 milliliters of purified methyl alcohol at a relatively slow rate. Drain all of the solvents and transfer the silica gel to an aluminum foil-lined drying dish. Place foil over the top of the dish. Activate in a vacuum oven at low vacuum (approximately 750 millimeters Mercury or 27 inches of Mercury below atmospheric pressure) at 173° to 177° C for at least 20 hours. Cool under vacuum and store in an amber bottle.

*Sodium sulfate, anhydrous, A.C.S. reagent grade.* This reagent should be washed with purified isooctane. Check the purity of this reagent as described in 21 CFR 121.1156.

*Water, purified.* All water used must meet the specifications of the following test:

Extract 600 milliliters of water with 50 milliliters of purified isooctane. Add 1 milliliter of purified *n*-hexadecane to the isooctane extract and evaporate the resulting solution to 1 milliliter. The absorbance of this residue shall not exceed 0.02 per centimeter path length between 300–400 nanometers and 0.03 per centimeter path length between 280–299 nanometers. If necessary, water may be purified by distillation, extraction with purified organic solvents, treatment with an absorbent (e.g., activated carbon) followed by filtration of the absorbent or otherwise.

PROCEDURE

Separate portions of 200 milliliters of purified water are taken through the procedure for use as control blanks. Each citric acid sample is processed as follows: Weigh 200 grams of anhydrous citric acid into a 500 milliliter flask and dissolve in 200 milliliters of pure water. Heat the solution to 60° C and transfer to a 500 milliliter separatory funnel. Rinse the flask with 50 milliliters of isooctane and add the isooctane to the separatory funnel. Gently shake the mixture 90 times (caution: vigorous shaking will cause emulsions) with periodic release of the pressure caused by shaking.

Allow the phases to separate for at least 5 minutes. Draw off the lower aqueous layer into a second 500-milliliter separatory funnel and repeat the extraction with a second aliquot of 50 milliliters of isooctane. After separation of the layers, draw off and discard the water layer. Combine both isooctane extracts in the funnel containing the first extract. Rinse the funnel which contained the second extract with 10 milliliters of isooctane and add this portion to the combined isooctane extract.

A chromatographic column containing 5.5 grams of silica gel and 3 grams of anhydrous sodium sulfate is prepared for each citric acid sample as follows: Fit 18 x 300 column with a small glass wool plug. Rinse the inside of the column with 10 milliliters of purified isooctane. Drain the isooctane from the column. Pour 5.5 grams of activated silica gel into the column. Tap the column approximately 20 times on a semisoft, clean surface to settle the silica gel. Carefully pour 3 grams of anhydrous sodium sulfate onto the top of the silica gel in the column.

Carefully drain the isooctane extract of the citric acid solution into the column in a series of additions while the isooctane is draining from the column at an elution rate of approximately 3 milliliters per minute. Rinse the separatory funnel with 10 milliliters of isooctane after the last portion of the extract has been applied to the column and add this rinse to the column. After all of the extract has been applied to the column and the solvent layer reaches the top of the sulfate bed, rinse the column with 25 milli-

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

liters of isooctane followed by 10 milliliters of a 10-percent dichloroethane in hexane solution. For each rinse solution, drain the column until the solvent layer reaches the top of the sodium sulfate bed. Discard the rinse solvents. Place a 250-milliliter round bottom flask containing 0.5 milliliter of purified *n*-hexadecane under the column. Elute the polynuclear aromatic hydrocarbons from the column with 30 milliliters of 40-percent benzene in hexane solution. Drain the eluate until the 40-percent benzene in the hexane solvent reaches the top of the sodium sulfate bed.

Evaporate the 40-percent benzene in hexane eluate on the rotary vacuum evoporator at 45° C until only the *n*-hexadecane residue of 0.5 milliliter remains. Treat the *n*-hexadecane residue twice with the following wash step: Add 6 milliliters of purified isooctane and remove the solvents by vacuum evaporation at 45° C to constant volume, i.e., 0.5 milliliter. Cool the *n*-hexadecane residue and transfer the solution to 0.5-milliliter microcuvette. Determine the absorbance of this solution compared to purified *n*-hexadecane as reference. Correct the absorbance values for any absorbance derived from the control reagent blank. If the corrected absorbance does not exceed the limits prescribed, the samples meet the ultraviolet absorbance specifications.

The reagent blank is prepared by using 200 milliliters of purified water in place of the citric acid solution and carrying the water sample through the procedure. The typical control reagent blank should not exceed 0.03 absorbance per centimeter path length between 280 and 299 nanometers, 0.02 absorbance per centimeter path length between 300 and 359 nanometers, and 0.01 absorbance per centimeter path length between 360 and 400 nanometers.

Any person who will be adversely affected by § 121.1259 in the foregoing order may at any time on or before October 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order shall become effective on September 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21188 Filed 9-20-74;8:45 am]

## PART 121—FOOD ADDITIVES

### Subpart D—Food Additives Permitted in Food for Human Consumption

SUGAR (SUCROSE); ALPHA-GALACTOSIDASE ENZYME

The Food and Drug Adminstration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior-sanctioned through actions of the Food and Drug Administration or the U.S. Department of Agriculture before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration before using a food ingredient on the ground that it is GRAS for the use involve. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in food on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requres the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with the procedures established in § 121.40, Markel, Hill, and Byerly, 1625 K Street, NW., Washington, DC 20006, has submitted a petition (GRASP 3G0030) on behalf of Hokkaido Sugar Co., Ltd., requesting affirmation that beet sugar (sucrose) treated with an alpha-galactosidase enzyme is GRAS for use in food.

A notice of the filing of this petition was published in the FEDERAL REGISTER of August 9, 1973 (38 FR 21514) and interested persons were notified therein of the opportunity to review the petition and to submit comments thereon to the Hearing Clerk, Food and Drug Administration. No comments were received.

The production of sugar from sugar beets produces a liquid molasses as a by-product. Sucrose (sugar) can also be separated from the molasses by precipitation as a calcium salt. This latter step increases the yield of sucrose significantly. However, the precipitation of sucrose from the molasses is less than it should be because of the presence in the molasses of raffinose, another sugar that interferes with the sucrose precipitation. As the molasses is recycled to remove sucrose, the raffinose level reaches a point where crystallization of sucrose ceases. Utilization of the enzyme alpha-galactosidase has been shown to hydrolyze the raffinose to sucrose and galactose, permitting a further increase in the total process yield of sucrose.

Alpha-galactosidase is found as an endogenous enzyme produced by the mycelium of the microorganism *Mortierella vinaceae* var. *raffinoseutilizer*, and, for purposes of sugar processing, is dispensed as mycelial pellets to be filtered from the molasses after treatment. A patent for the process was granted on March 7, 1972.

The petition has presented data to demonstrate the feasibility of increasing sugar yields by use of the microorganism. The petition has been filed as provided for in § 121.40 and carefully evaluated in accordance with the criteria established for GRAS substances.

The petition requests GRAS affirmation of sugar produced by use of the microorganism, *Mortierella vinaceae* var. *raffinoseutilizer* and its specific enzyme system. There is no reason to consider sugar prepared in this fashion different from food grade sugar prepared by other processes as long as the process results in no residue of the enzyme system in the final sugar. Sugar is the subject of a Scientific Literature Review that will be evaluated in the current GRAS review program. Therefore, pursuant to the provisions of § 121.40(c)(1), sugar produced by this method is not eligible for GRAS affirmation by petition, and that request in the petition is denied. Pending the evaluation of the GRAS status of food grade sugar, the Food and Drug Administration will consider sucrose (sugar) produced by this method meeting the specifications of the Food Chemicals Codex and free from the microorganism and its enzyme system in the same category as other sucrose.

The petition also requires consideration of the status and conditions of safe use of the new process, utilizing the action of the microorganism *Mortierella vinaceae* var. *raffinoseutilizer* and its enzyme system in mycelial pellets. The Commissioner finds that:

1. No evidence was presented that there exist published studies on the safety of this enzyme system that are available to scientists generally, or that there is common knowledge about the safety of this enzyme system throughout the scientific community knowledgeable about the safety of food ingredients. The petitioner presents unpublished data to establish the safety of the proposed use of the enzyme system in the production of sugar.
2. The enzyme substance was not commonly used in food production in the United States prior to January 1, 1958.
3. The use requested is effective.
4. The use requested is safe.
5. Information is not presented to permit an adequate evaluation of the safety of the sucrose-free molasses byproduct for animal feed use.

Accordingly, the Commissioner concludes, in accordance with § 121.40(c)(5), that there is a lack of convincing evidence that the enzyme system is GRAS. The enzyme substance is therefore a food additive, subject to section 409 of the act.

The Commissioner further advises that the petition submitted for GRAS affirmation has been evaluated also as a food additive petition in accordance with §§ 121.41(c) and 121.51. The Commissioner finds that the data provided establish the conditions of safe use for the food additive alpha-galactosidase and its parent microorganism *Mortierella vinaceae* var. *raffinoseutilizer* in the production of beet sugar. This action does not authorize use of the molasses end-product in animal feed. The latter use is properly the subject of a separate petition for feed additive use.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a)), and under the authority delegated to him (21 CFR 2.120), the Commissioner concludes that the request for GRAS affirmation of sucrose derived by this process be denied, and that Subpart D of the food additive regulations be amended by adding a new § 121.1260 to read as follows:

**§ 121.1260 Alpha-galactosidase from Morteirella vinaceae var. raffinoseutilizer.**

The food additive alpha-galactosidase and parent mycelial microorganism *Mortierella vinaceae* var. *raffinoseutilizer* may be safely used in food in accordance with the following conditions:

(a) The food additive is the enzyme alpha-galactosidase and the mycelia of the microorganism *Mortierella vinaceae* var. *raffinoseutilizer* which produces the enzyme.

(b) The nonpathogenic microorganism matches American Type Culture Collection (ATCC) No. 20034,[1] and is classified as follows:

Class: Phycomycetes.
Order: Mucorales.
Family: Mortierellaceae.
Genus: *Mortierella.*
Species: *vinaceae.*
Variety: *raffinoseutilizer.*

(c) The additive is used or intended for use in the production of sugar (sucrose) from sugar beets by addition as mycelial pellets to the molasses to increase the yield of sucrose, followed by removal of the spent mycelial pellets by filtration.

(d) The enzyme removal is such that there are no enzyme or mycelial residues remaining in the finished sucrose.

Any person who will be adversely affected by § 121.1260 in the foregoing order may at any time on or before October 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order shall become effective September 23, 1974.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21184 Filed 9-20-74;8:45 am]

## PART 121—FOOD ADDITIVES

### Subpart D—Food Additives Permitted in Food for Human Consumption

ELECTROLYTIC DIAPHRAGM PROCESS FOR SALT

The Food and Drug Administration is conducting a study of the safety of ingredients added directly to human food that have been previously classified as generally recognized as safe (GRAS), or prior-sanction through actions of the Food and Drug Administration or the U.S. Department of Agriculture, before enactment of the Food Additives Amendment of 1958. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review.

Section 409 of the act does not require that a food manufacturer consult with, or obtain the approval of, the Food and Drug Administration before using a food ingredient on the ground that it is GRAS for the use involved. Moreover, the original GRAS list promulgated on the initiative of the Food and Drug Administration concluded in § 121.101(a) that it was impractical for the Food and Drug Administration to attempt to list all food ingredients that are generally recognized as safe for their intended use. Thus, a number of ingredients are used in food on the determination and responsibility of the food manufacturer that the ingredient is GRAS for that purpose, without review or approval by the Food and Drug Administration.

Use of food ingredients as GRAS without the review and approval of the Food and Drug Administration often does not afford the opportunity for participation of qualified scientists and other interested members of the public. In addition, the law requires the Food and Drug Administration to monitor the use of all food ingredients, and to make certain that no ingredients are used which are not in fact GRAS, unless a food additive regulation is promulgated. Accordingly, the Commissioner has determined that it is in the public interest to have the safety of ingredients, used in food on the ground of GRAS status, reviewed through public procedures. The Commissioner has promulgated criteria by which a substance may be eligible for GRAS status, and procedures for submitting petitions requesting Food and Drug Administration affirmation of GRAS status or determination of food additive status.

The "affirmed GRAS lists" now established in §§ 121.104 and 121.105 contemplate a complete list of substances except traditional food items which do not need listing. Because of the wide scope of sections 201(s) and 409 of the act, which encompass all ingredients in any processed or fabricated food, including raw agricultural commodities and substances migrating from food-contact articles, an all-inclusive list of affirmed GRAS food ingredients will not be attained for some time.

In accordance with procedures described in § 121.40, a petition (GRASP 3G0015) was submitted by Bernstein, Alper, Schoene and Friedman, 818 18th St., NW., Washington, DC 20006, requesting affirmation that chemically purified salt produced in conjunction with the electrolytic production of chlorine and caustic soda is GRAS for use in food.

A notice of filing of this petition was published in the FEDERAL REGISTER of July 12, 1973 (38 FR 15471) and interested persons were notified therein of their opportunity to review the petition and to submit comments thereon to the Hearing Clerk, Food and Drug Administration. No comments were received.

[1] Available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

Sodium chloride in the form commonly known as "table salt" is generally a refined product obtained from natural deposits of the mineral or by solar evaporation of sea water or salt lakes. About 95 percent of the salt used in the United States is recovered from natural deposits either by shaft mining or solution mining. Table salt is refined generally by selective crystallization of brines to decrease the calcium, magnesium, and other metal halides generally found in the natural deposits. The generally used methods of manufacturing salt for food use will produce a product which meets the specifications as set forth in the Food Chemicals Codex, 2d Ed. (1972).[1] Many manufacturers produce special grades of salt for use in specialty type foods which are even more highly refined or purified than food grade salt.

The petition has presented data to demonstrate the feasibility of food grade sodium chloride production as a byproduct of the electrolytic production of chlorine and sodium hydroxide. The petition has been filed as provided for in § 121.40 and carefully evaluated in accordance with the criteria established for GRAS substances.

This salt is produced as a byproduct of the electrolytic diaphragm process for manufacturing chlorine and sodium hydroxide. The new electrodes proposed for use in the electrolytic diaphragm process do not have a history of use for this purpose, and could be unsafe if compounds dissolved from the electrodes caused contamination. The petitioner describes an electrolytic diaphragm process utilizing electrodes that do not produce impurities that will exceed the levels established for food grade salt in the Food Chemical Codex. The petitioner has shown that sodium chloride (salt) produced by this process does have a higher alkalinity than most of the other commercial products. Since there is no specification for this, a specification is needed to assure that the alkalinity level of such salt is without increased risk. The petitioner proposes a limit of alkalinity for his product of 500 parts per million (ppm) as $Na_2O$. This calculates to 645 ppm or 0.0645 percent NaOH. This level of alkalinity as sodium hydroxide in such a product is reasonable and poses no nutrition or toxicity problems. The analytical data supplied by the petitioner show that sodium chloride from this electrolytic process is otherwise comparable to other commercial preparations.

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

There is no reason to consider that salt produced electrolytically is different from food grade salt prepared by conventional processes if the existing Food Chemicals Codex specifications are supplemented to assure a safe limitation on the degree of alkalinity. Salt is the subject of a Scientific Literature Review that will be evaluated in the current GRAS review program. Therefore, pursuant to the provisions of § 121.40(c)(1), salt produced by this method is not eligible for GRAS affirmation by petition, and that request in the petition is denied. Pending the evaluation of the GRAS status of food grade salt, the Food and Drug Administration will consider salt (electrolytically produced) in the same category as other salt.

The petition also requires consideration of the status and conditions of safe use of the electrodes used in the electrolytic production of chlorine and sodium hydroxide. The Commissioner finds that:

1. No evidence was presented that there exist published studies on the safety of this electrolytic diaphragm process in producing salt that are available to scientists generally, or that there is common knowledge about the safety of this production method throughout the scientific community knowledgeable about the safety of food ingredients. The petitioner presents unpublished data to establish the safety of the proposed use of the electrode system of this process for the production of salt.
2. The electrode system was not commonly used in food production in the United States prior to January 1, 1958.
3. The use requested is effective.
4. The use requested is safe.

Accordingly, the Commissioner concludes in accordance with § 121.40(c)(5) that there is a lack of convincing evidence that the electrolytic diaphragm process is GRAS. The process with its electrode system is therefore a food additive, subject to section 409 of the act.

The Commissioner further advises that the petition submitted for GRAS affirmation has been evaluated also as a food additive petition in accordance with §§ 121.41(c) and 121.51. The Commissioner finds that the data provided establish the conditions of safe use for this electrolytic system for the production of food grade salt.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a) and under the authority delegated to him (21 CFR 2.120), the Commissioner concludes that the request for GRAS affirmation of sodium chloride (electrolytically produced) be denied, and that Part 121 be amended by adding to Subpart D a new § 121.126 to read as follows:

**§ 121.1261 Electrolytic diaphragm process for salt.**

The electrolytic diaphragm process for producing chlorine and sodium hydroxide may be safely used to produce food grade sodium chloride (salt) as a byproduct in accordance with the following conditions:

(a) The electrodes used in the diaphragm process are fabricated from materials that do not produce impurities in the salt that are not present in salt produced by other means.

(b) The salt so produced meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(c) The salt contains not more than 0.065 percent alkalinity calculated as sodium hydroxide (NaOH).

Any person who will be adversely affected by § 121.1261 in the foregoing order may at any time on or before October 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.* This order shall become effective on September 23, 1974.

(Secs. 201(s), 409 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a))

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc. 74-21192 Filed 9-20-74;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Food and Drug Administration**

**[ 21 CFR Part 121 ]**

### GENERAL RECOGNITION OF SAFETY AND PRIOR SANCTIONS FOR FOOD INGREDIENTS

**Notice of Proposed Rule Making**

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), the Commissioner of Food and Drugs issued several proposed regulations and notices governing the review of the safety of ingredients that have been used in food on the determination that they are generally recognized as safe (GRAS) or subject to a prior sanction from the Food and Drug Administration or the United States Department of Agriculture issued prior to September 6, 1958, the effective date of section 201(s) of the Federal Food, Drug, and Cosmetic Act. The Commissioner had promulgated definitions in § 121.1 (21 CFR 121.1), criteria for determining GRAS status in § 121.3 (21 CFR 121.3), regulations governing issuance of opinion letters on the status of ingredients under section 201(s) and 409 of the act in § 121.11 (21 CFR 121.11), procedures for affirmation of GRAS status and determination of food additive status in §§ 121.40 and 121.41 (21 CFR 121.40 and 121.41), and procedures for codifying and limiting or revoking prior sanctions in § 121.4000 (21 CFR 121.4000).

In reviewing the comments received on the notices and proposals published on July 26, 1973, and preparing the final orders on these proposals that appear elsewhere in this issue of the FEDERAL REGISTER, the Commissioner has concluded that it would be advisable to revise some of the existing regulations in 21 CFR Part 121 to clarify the criteria for GRAS status, the differences between GRAS status and food additive status, and the procedures being used to conduct the current review of food ingredients.

#### GRAS STATUS

Section 201(s) of the act provides that a food ingredient may be determined to be GRAS on the basis either of scientific procedures or, if the ingredient was used in food prior to January 1, 1958, through experience based on common use in food. Prior to the current review of the safety of GRAS and prior-sanctioned ingredients, the precise implications of this provision of the act, and its relation to the food additive provisions of the act, had not been clarified.

Under section 409 of the act, a food additive is required to be proved to be safe through adequate scientific evidence. The Commissioner believes that Congress intended the phrase "scientific procedures" as used in section 201(s) of the act to have the same dimensions as the full reports of investigations required to prove the safety of a food additive under section 409 of the act. Accordingly, the Commissioner proposes to define "scientific procedures" to include those scientific studies appropriate to establish the safety of a substance. General recognition of safety through scientific procedures under section 201(s) would therefore require the same quantity and quality of scientific evidence as is required for proof of safety under section 409. This is consistent with the recent decisions of the Supreme Court in Weinberger v. Hynson, Westcott & Dunning, Inc., 412 U.S. 609 (1973) and Weinberger v. Bentex Pharmaceuticals, Inc., 412 U.S. 645 (1973), where the Court held that the reach of scientific inquiry under the comparable provisions of sections 505(b) and 201(p) is "precisely the same".

The Commissioner also proposes to require that general recognition of safety must ordinarily be based upon published literature. This is consistent with the Supreme Court's statement in the Bentex decision that whether a particular drug is a "new drug" depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation and backed by "substantial support in scientific literature". Although the Supreme Court was there referring to new drugs rather than to food additives, and to effectiveness rather than to safety, the underlying legal issues are indistinguishable.

Unlike the definition of a "new drug" in section 201(p), however, under section 201(s) a food ingredient may become generally recognized as safe solely through common use in food if it was marketed prior to January 1, 1958. For such ingredients, scientific procedures are not required either to establish GRAS status or to obtain a food additive regulation to permit continued marketing. Accordingly, the Commissioner proposes to define "common use in food" to mean a substantial history of consumption of a substance by a significant number of consumers in the United States, and explicitly to recognize that, under the law, GRAS status based upon such a determination does not require or involve the same quantity or quality of scientific evidence that would be required for approval of a food additive regulation.

This is a particularly important concept under the law. The current review of GRAS and prior-sanctioned ingredients used in food has made it clear that, for a large number of food ingredients marketed prior to 1958, scientific studies of the types now required for approval of food additives have never been undertaken. This includes virtually all raw agricultural commodities and other substances of natural biological origin. A requirement that all of these foods be tested according to modern standards for new food additives would be a substantial misallocation of the country's testing resources and would represent a serious misordering of priorities. Where significant safety questions arise, immediate new testing can and will be required. Where no known hazard exists for pre-1958 ingredients, however, the law clearly contemplates that the full battery of tests for a new food additive is not to be required.

For substances introduced into food after 1958, GRAS status may not be achieved through experience based on common use in food. For such substances, GRAS status may be determined, if at all, solely on the basis of scientific procedures, i.e., the same quantity and quality of scientific evidence as is necessary to obtain approval of a food additive at this time.

Section 201(s) of the act does provide, however, that such GRAS status may be achieved for post-1958 food ingredients on the basis of scientific procedures even prior to any significant history of marketing and use. Unlike the definition of "new drug" in section 201(p) of the act, section 201(s) does not require that a food ingredient be used "to a material extent or for a material time" before it may become GRAS.

On the other hand, general recognition of safety through scientific procedures does require that the scientific evidence on the basis of which this status is achieved has been published in the literature or otherwise widely disseminated throughout the scientific community knowledgeable about the safety of food ingredients, and that this evidence has indeed become common knowledge among such scientists. Accordingly, there will be at least some gap between the gathering of the scientific knowledge necessary to provide the toxicological underpinning for general recognition of safety and the dissemination to and assimilation by the scientific community of this material that is necessary for general recognition of safety to exist.

The Commissioner recognizes that it is not feasible at this time to prepare a list of all GRAS substances, and that such a list may well not be feasible for many years to come. GRAS status for raw agricultural commodities and other substances of natural biological origin that have been in common use prior to 1958 will ordinarily not require promulgation of a regulation in the FEDERAL REGISTER, unless a new type of processing is instituted. Instead, priority will be given to review of the status of food ingredients for which new processing methods have been introduced since 1958 or for which other significant alteration of composition has been made, synthetic food ingredients, substances intended for consumption for other than their nutrient properties, products extracted or otherwise obtained from GRAS substances, and other food ingredients for which safety questions have arisen Once this lengthy list of substances is reviewed, it may then be feasible to return to matters of lower priority, and ultimately to develop a comprehensive GRAS list.

In the past, it has been too often assumed that a GRAS substance may be used in any food, at any level, for any purpose. As a result, the uses of some GRAS food ingredients have proliferated

to the point where their GRAS status has been brought into serious question.

The Commissioner has concluded that there should be three types of regulations affirming the GRAS status of an ingredient. Where it is concluded after general evaluation of use of an ingredient that it is GRAS under conditions of use that presently exist or that are reasonably foreseeable, it is sufficient that the regulation affirming GRAS status state that it may be used under good manufacturing practices. This type of regulation will contain the conditions and levels of use that have been reported by the 1972 NAS/NRC survey on food manufacturers pursuant to current good manufacturing practices. These reported conditions of use (the function for which it is used, the food categories in which it is used, and the maximum levels at which it is used) are not intended as rigid limitations. Variations in use of a GRAS ingredient subject to this type of regulation will be permitted as long as the new conditions of use are not significantly different from those on the basis of which the GRAS status of the substance was affirmed.

For some GRAS ingredients, however, GRAS status is affirmed after general evaluation of their use only on the basis of existing use patterns, and not on the basis of possible increase in use. For these substances, the Commissioner proposes to establish rigid limitations in the regulations affirming the ingredient as GRAS. Any use of the ingredient under conditions other than those explicitly set out in the regulation (e.g., a use in a different category of food, or for a different functional purpose, or at a higher level) will automatically require a food additive regulation prior to such use. Thus, these limitations have the same effect as a limitation in a food additive regulation.

Where a general evaluation of use of an ingredient has not been made, specific uses of the ingredient may nevertheless be affirmed as GRAS. Petitions to affirm the GRAS status of substances under such circumstances are invited by § 121.40(c) (21 CFR 121.40(c)). Although a general evaluation of all uses of an ingredient is pertinent to its GRAS status, it is not feasible to make such an evaluation whenever a specific use is sought to be affirmed as GRAS. Such an evaluation would eventually be made in the course of development of a comprehensive GRAS list, however. The Commissioner proposes that specific uses be affirmed as GRAS, subject to reconsideration when general evaluation is undertaken. A regulation issued prior to general evaluation of use of an ingredient would not necessarily list all uses that are GRAS.

The Commissioner believes that the type of experience based on common use in food that will support a GRAS determination must involve use in the United States, and not solely in foreign countries. Reported use in foreign countries often cannot be verified, and in any event the experience based upon such use cannot be monitored or evaluated. Food consumption patterns and differences between cultures make it impossible to assess whether a history of use abroad would be comparable to a history of use in the United States.

The determination that a food ingredient is GRAS is generally made on a product of specific composition, produced by one or more known manufacturing processes. This is particularly important where GRAS status is determined through experience based on common use in food, rather than through scientific procedures, because any change in a manufacturing process makes the relevance of the prior experience questionable. Accordingly, the Commissioner regards it as important that regulations affirming the GRAS status of an ingredient specify the manufacturing process used to obtain the ingredient that has been determined to be GRAS, and differentiate it from other possible versions of the ingredient that have not yet been determined to be GRAS. Other processes of manufacture may significantly alter the composition, and perhaps the toxicity, of the ingredient.

A change in manufacturing process may or may not require a food additive regulation, depending upon the information available about it. In any event, consideration must be given to the new process, to determine whether additional specifications or limitations are required to assure that the new version of the ingredient is not significantly different from the version that has been determined to be GRAS.

### Prior Sanctions

The present review of GRAS and prior-sanctioned ingredients has required development of a means of ascertaining the existence or waiving the applicability of prior sanctions for use of such ingredients in food through approvals granted by the United States Department of Agriculture and the Food and Drug Administration prior to the effective date of the Food Additives Amendment of 1958, i.e., September 6, 1958. In the FEDERAL REGISTER of July 26, 1973 (38 FR 20041, 20048), the Commissioner proposed new regulations (21 CFR 121.104 and 121.105) incorporating a procedure for accomplishing this. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is publishing final regulations incorporating this procedure without change. Any person who wishes to assert or at any time rely upon a prior sanction is required to submit proof of such prior sanction when a GRAS affirmation regulation is proposed. The failure to do so constitutes a waiver of any such prior sanction. The Commissioner has concluded that this procedure should be incorporated in other provisions of the regulations so that it will apply uniformly whenever regulations are adopted setting restrictions or limitations on ingredients where prior sanctions may possibly exist.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047 as amended, 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 342, 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 121:

1. In § 121.1 by revising paragraphs (f), (h), (i) and (k), and by adding new paragraphs (l) and (m) as follows:

**§ 121.1 Definitions and interpretations.**

* * * * *

(f) "Common use in food" means a substantial history of consumption of a substance by a significant number of consumers in the United States.

* * * * *

(h) "Scientific procedures" include those human, animal, analytical, and other scientific studies, whether published or unpublished, appropriate to establish the safety of a substance.

(i) "Safe" or "safety" means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful. It is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of any substance. Safety may be determined by scientific procedures or by general recognition of safety. In determining safety, the following factors shall be considered:

(1) The probable consumption of the substance and of any substance formed in or on food because of its use.

(2) The cumulative effect of the substance in the diet, taking into account any chemically or pharmacologically related substance or substances in such diet.

(3) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food and food ingredients, are generally recognized as appropriate.

(4) The benefit contributed by the substance.

* * * * *

(k) "General recognition of safety" shall be determined in accordance with § 121.3.

(l) "Prior sanction" means an explicit approval granted with respect to use of a substance in food prior to September 6, 1958, by the United States Department of Agriculture or the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, or the Meat Inspection Act.

(m) "Food" includes human food, substances migrating to food from food-contact articles, pet food, and animal feed.

2. By revising § 121.3 to read as follows:

**§ 121.3 Classification of a food ingredient as generally recognized as safe (GRAS).**

(a) General recognition of safety may be based upon either (1) scientific procedures or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food. General recognition of safety

requires common knowledge about the substance throughout the scientific community knowledgeable about the safety of food ingredients.

(b) General recognition of safety based upon scientific procedures shall require the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation for the ingredient. General recognition of safety through scientific procedures shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(c) General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive regulation. General recognition of safety through experience based on common use in food prior to January 1, 1958, shall ordinarily be based upon generally available data and information. An ingredient not in common use in food prior to January 1, 1958, may achieve general recognition of safety only through scientific procedures.

(d) The food ingredients listed as GRAS in § 121.101 or affirmed as GRAS in § 121.104 or § 121.105 do not include all substances that are generally recognized as safe for their intended use in food. Because of the large number of substances the intended use of which results or may reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food, it is impracticable to list all such substances that are GRAS. A food ingredient of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effects, which is subject only to conventional processing as practiced prior to January 1, 1958, and for which no known safety hazard exists, will ordinarily be regarded as GRAS without specific inclusion in §§ 121.101, 121.104, or 121.105.

(e) Food ingredients were listed as GRAS in § 121.101 during 1958–1962 without a detailed scientific review of all available data and information relating to their safety. Beginning in 1969, the Food and Drug Administration has undertaken a systematic review of the status of all ingredients used in food on the determination that they are GRAS or subject to a prior sanction. All determinations of GRAS status or food additive status or prior sanction status pursuant to this review shall be handled pursuant to §§ 121.40, 121.41, and 121.4000. Affirmation of GRAS status shall be handled pursuant to §§ 121.104 or 121.105. The result of such review shall also be made known by an appropriate reference under the heading for the column "Limitations, restrictions, or explanations" in the tables in § 121.101.

(f) The status of the following food ingredients will be reviewed and affirmed as GRAS or determined to be a food additive or subject to a prior sanction pursuant to §§ 121.40, 121.41, or 121.4000.

(1) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, and which has been modified by processes first introduced into commercial use after January 1, 1958, which may reasonably be expected significantly to alter the composition of the substance.

(2) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, that has had significant alteration of composition by breeding or selection after January 1, 1958, where the change may be reasonably expected to alter the nutritive value or the concentration of toxic constituents.

(3) Distillates, isolates, extracts, concentration of extracts, or reaction products of GRAS substances.

(4) Substances not of a natural biological origin, including those for which evidence is offered that they are identical to a GRAS counterpart of natural biological origin.

(5) Substances of natural biological origin intended for consumption for other than their nutrient properties.

(g) A food ingredient that is not GRAS or subject to a prior sanction requires a food additive regulation promulgated under section 409 of the act or a tolerance or action level promulgated under Part 122 of this chapter before it may be used in food as an added substance.

(h) Unless it is affirmed as GRAS for a specific use prior to general evaluation of use of the ingredient, a food ingredient that is listed as GRAS in § 121.101 or affirmed as GRAS in §§ 121.104 or 121.105 shall be regarded as GRAS only if, in addition to all the requirements in the applicable regulation, it also meets all of the following requirements:

(1) It complies with any applicable food grade specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(2) It performs an appropriate function in the food in which it is used.

(3) It is used at a level no higher than necessary to achieve its intended purpose in that food.

(4) If it is affirmed as GRAS in §§ 121.104 or 121.105 with no limitation other than good manufacturing practices, its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed.

(5) If it is affirmed as GRAS in §§ 121.104 or 121.105 with specific limitation(s), it is used in food only within such limitation(s) (including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(i) A food ingredient that is affirmed as GRAS in §§ 121.104 or 121.105 for a specific use(s), prior to general evaluation of use of the ingredient, shall be regarded as GRAS if, in addition to all the requirements in the applicable regulation, it meets the requirements of paragraph (h)(1), (2), and (3) of this section. In addition to the use(s) specified in the applicable regulation, other uses of such an ingredient may also be GRAS. Any affirmation of GRAS status for a specific use(s), prior to general evaluation of use of the ingredient, is subject to reconsideration upon such evaluation.

(j) New information may at any time require reconsideration of the GRAS status of a food ingredient. Any change in §§ 121.101, 121.104, or 121.105 shall be accomplished pursuant to § 121.41.

3. By adding a new § 121.14 to read as follows:

**§ 121.14 Prior sanctions.**

(a) A prior sanction shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval by the Food and Drug Administration or the United States Department of Agriculture prior to September 6, 1958.

(b) The existence of a prior sanction exempts the sanctioned use(s) from the food additive provisions of the act but not from the other adulteration or the misbranding provisions of the act.

(c) All known prior sanctions shall be the subject of a regulation published in Subpart E of this part. Any such regulation is subject to amendment to impose whatever limitation(s) or condition(s) may be necessary for the safe use of the ingredient, or revocation to prohibit use of the ingredient, in order to prevent the adulteration of food in violation of section 402 of the act.

(d) In proposing regulations affirming the GRAS status of substances added directly to human food in § 121.104 or substances in food-contact surfaces in § 121.105, or in establishing a food additive regulation for substances added directly to human food in Subpart D of this part or food additives in food-contact surfaces in Subpart F of this part, the Commissioner shall, if he is aware of any prior sanction for use of the ingredient under conditions different from those proposed in the regulation, concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any food additive or GRAS regulation promulgated pursuant to this part constitutes a determination that excluded uses would

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to a proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

4. By amending § 121.40 to add the following new paragraph (c)(6) to read as follows:

**§ 121.40 Affirmation of generally recognized as safe (GRAS) status.**

* * * * *

(c) * * *

(6) The notice of filing in the FEDERAL REGISTER will request submission of proof of any applicable prior sanction for use of the ingredient under conditions different from those proposed to be determined to be GRAS. The failure of any person to come forward with proof of such an applicable prior sanction in response to the notice of filing will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice of filing will also constitute a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the notice of filing.

5. By amending § 121.41 to add a new paragraph (d) to read as follows:

**§ 121.41 Determination of food additive status.**

* * * * *

(d) If the Commissioner of Food and Drugs is aware of any prior sanction for use of the substance, he will concurrently propose a separate regulation covering such use of the ingredient under Subpart E of this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable sanction in response to the proposal.

6. By amending § 121.104 to add a new sentence to paragraph (a) and by adding new subparagraphs (1), (2), and (3) to paragraph (b) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

(a) * * * The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS.

(b) * * *

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practices, it shall be regarded as GRAS as long as its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food only within such limitation(s) (including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, prior to general evaluation of use of the ingredient, other uses may also be GRAS.

* * * * *

7. By amending § 121.105 to add a new sentence to paragraph (a) and by adding new subparagraphs (1) and (2) to paragraph (b) to read as follows:

**§ 121.105 Substances in food contact surfaces affirmed as generally recognized as safe (GRAS).**

(a) * * * The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS.

(b) * * *

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practices, it shall be regarded as GRAS as long as its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food-contact surfaces only within such limitation(s) (including the category of food-contact surface(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, prior to general evaluation of use of the ingredient, other uses may also be GRAS.

* * * * *

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

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[ 21 CFR Part 121 ]

## BENZOIC ACID AND SODIUM BENZOATE

### Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035-20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review, the safety of benzoic acid and sodium benzoate has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the GRAS status of these two ingredients.

Benzoic acid (benzencarboxylic acid) and its sodium salt, sodium benzoate (benzoate of soda) were listed in § 121.101(d)(2) as GRAS for use in food as chemical preservatives at a maximum of 0.1 percent, published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9369). Subsequently, sodium benzoate was listed in § 121.2001 as prior-sanctioned for use in food as an antimycotic in the manufacture of food-packaging materials in the FEDERAL REGISTER of February 2, 1960 (25 FR 866).

Benzoic acid and sodium benzoate have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1527 abstracts on benzoates and benzoic acid was reviewed and 42 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which benzoic acid and sodium benzoate were used and

at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to benzoic acid and sodium benzoate. The total benzoic acid used in food in 1970 is reported to be 84,000 pounds, 2.1 times that used in 1960. The total sodium benzoate used in food in 1970 is reported to be 3,325,000 pounds, 1.4 times that used in 1960.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Benzoic acid and sodium benzoate are rapidly absorbed by mammals, conjugated with glycine, and rapidly excreted (more than 75 percent within 6 hours) in the urine as hippuric acid. There is no accumulation of benzoate in the body. When large doses are given, some of the compound is excreted as benzoyl glucuronide. The ability to conjugate benzoic acid depends upon adequate liver function and nutritional supply of glycine. Large doses of benzoic acid or sodium benzoate can produce glycine insufficiency with concurrent decrease in glycine-dependent metabolites.

The oral $LD_{50}$ for benzoic acid in the rat is reported to be 2,000 to 2,500 mg per kg; for sodium benzoate, 2,100 to 4,070 mg per kg. The oral $LD_{100}$ for benzoic acid is reported to be 1,520 to 2,000, 2,000, and 2,000 mg per kg for the rabbit, cat and dog respectively. The oral $LD_{50}$ for sodium benzoate in the rabbit and the dog is reported to be 2,000 mg per kg. The lethal dose for benzoic acid in sheep is estimated to be 1,000 mg per kg.

Mice, fed 80 mg per kg per day of benzoic acid for 8 months, showed significant depression of weight gain, increased liver weights, and enlarged spleens, ovaries, and lungs. In another report from the same laboratory, mice, administered 80 mg per kg per day of benzoic acid by oral intubation for 3 months, showed weight gains of 66 to 71 percent of the controls despite equivalent total feed consumption.

Benzoic acid, added to the diet at levels of "1 g% to 10 g%," stimulated growth rate and resulted in rats weighing more than the controls over a span of several weeks. The growth stimulation period was reported to be followed by growth depression but confirmation of this conclusion is not evident in the meager data presented.

Male Royal Wister rats fed a diet containing 3 percent benzoic acid for periods up to 35 days, showed early evidence of toxicity and death of half of the animals in 5 days. Histological examination revealed changes in the ganglia cells of the brain parenchyma. A comparable group of these animals, fed benzoic acid at a level of 1.1 percent failed to show neurotoxic signs or brain pathology. However, the authors interpreted their limited data to indicate that some growth retardation occurred at the 1.1 percent level.

Sodium benzoate fed at the high level of 5 percent in the diet of male weanling rats for 3 to 6 weeks elicited no gross toxicity other than growth depression which was largely counteracted by addition of extra glycine to the diet.

There are many short term studies in which sodium benzoate has been fed at a 1 percent level in the diet of rats with no discernible effects. However, sodium benzoate or benzoic acid fed to rats with a poor nutritional status at a level of 3 percent of the feed produced growth retardation and some deaths. A 90-day feeding study was carried out on rats exposed to diets containing sodium benzoate at levels of 1, 2, 4, or 8 percent. No adverse effects were observed at the levels lower than 8 percent.

Benzoic acid or sodium benzoate was fed to dogs at a level of 1 g per kg per day for 250 days without evidence of an adverse effect on growth, appetite or general physical condition.

In an early study (1909), 12 men who drank from 1–2.5 liters of apple juice containing 0.1 percent sodium benzoate complained of burning taste, headache, nausea and vomiting, itching of the skin, sweating, constipation and albuminuria. On the other hand, there are many accounts in which larger doses of benzoic acid produced no obvious symptoms in man. For example, ingestion of 1 g of benzoic acid in 88 doses over 92 days, or 1 g per day for 88 days, produced no observable untoward effects in human subjects. According to Kinsey and Wright, massive doses of sodium benzoate (25–60 g per day) were formerly given to rheumatic patients without producing a harmful effect. Doses of 6 g of sodium benzoate have been used to test liver function in many patients. Temporary distress due to gastrointestinal irritation, headache, and other central nervous system disturbances are often noted in such tests.

Comparisons of toxicity based on these short term studies show the mouse did not tolerate 80 mg per kg per day of benzoic acid, while the rat was not affected by 500 mg per kg per day, the dog by 1,000 mg per kg per day, or humans by 17 mg per kg per day.

No evidence of teratogenicity was found in rats administered 510 mg per kg of sodium benzoate by gavage on days 9–11 of gestation. Intraperitoneal injection of 1000 mg per kg of sodium benzoate on days 9–11 of gestation produced gross abnormalities and 12 percent fetal mortality.

The oral administration of 175 mg per kg of sodium benzoate to pregnant mice and rats daily from day 6 through day 15 of gestation, 300 mg per kg to pregnant hamsters daily from day 6 through day 10 of gestation, and 250 mg per kg to pregnant rabbits daily from day 6 through day 18 of gestation produced no discernible teratologic effects.

In long term studies (more than half the life span of the species) benzoic acid has been fed to rats at levels of 1 percent for 4 generations without appearance of abnormality.

Feeding studies designed to elicit evidence of mutagenicity of benzoates have not been reported. With respect to carcinogenicity, sodium benzoate fed to rats at a level of 5 percent in food for 23 weeks elicited no tumors. We are also aware of a report by investigators who dosed mice by oral intubation with 40 mg per kg per day of benzoic acid plus 80 mg per kg per day of sodium disulfite for 17 months. Of the first generation, 8 out of 100 and of the third generation, 1 out of 8 mice were reported to have malignant tumors. However, it is impossible to assess the validity of the findings or the causative factor(s) from the data given in the report.

In vitro sodium benzoate at a final concentration of 1.7 M inhibited a variety of enzymes and promoted autooxidation of heme pigments. Oral administration of sodium benzoate to rabbits (100 mg per kg) reduced the prothrombin time for 7 days. Intubation of 50 mg per kg of sodium benzoate to adult rats caused a decrease in the rate of fat absorption.

All of the available safety information on benzoic acid and sodium benzoate has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances (SCOGS) selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

There are extensive metabolic data on benzoic acid and sodium benzoate in experimental animals and man. It appears that the rat and human have similar metabolic pathways. Short and long term feeding studies, as well as teratological investigations, have also been reported in the rat. Interpolation of the rat data and consumer exposure data indicates that the highest no effect level reported in the long term laboratory feeding study of sodium benzoate is approximately 180 fold the amount usually present in man's daily diet. The highest no effect level reported in laboratory animal feeding is approximately 90 fold the amount that would be consumed if an individual's diet were to consist only of those foods containing the greatest amounts of sodium benzoate in current usage.

It is the conclusion of the Select Committee that there is no evidence in the available information on benzoic acid and sodium benzoate that demonstrates a hazard to the public when they are used at current levels and in the manner now practiced or under conditions that might reasonably be expected in the future. Based upon his own evaluation of all available information on benzoic acid and sodium benzoate, the Commissioner concurs with this conclusion. The Commisioner therefore concludes that no change in the current GRAS status of these ingredients is justified.

Copies of the Scientific Literature Review on benzoic acid and sodium benzoate, reports of the teratology screening tests for the ingredients, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS) 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order No. | Cost |
|---|---|---|
| Benzoates (scientific literature review). | PB-221-208 | $5.45 |
| Benzoates (FASEB evaluation). | PB-223-837/AS | 2.75 |
| Sodium benzoate (teratology test). | PB-221-777 | 4.50 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of benzoic acid and sodium benzoate for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR

2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(2) by revising the entries for "Benzoic acid" and "Sodium benzoate" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (2) CHEMICAL PRESERVATIVES | | |
| * * * | * * * | * * * |
| Benzoic acid | 0.1 percent | Affirmed as GRAS, § 121.104(g)(6). |
| * * * | * * * | * * * |
| Sodium benzoate | 0.1 percent | Affirmed as GRAS, § 121.104(g)(7). |
| * * * | * * * | * * * |

* * * * * * * *

2. In § 121.104 by adding new paragraph (g)(6) and (7) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(6) *Benzoic acid.* (i) Benzoic acid is the chemical benzenecarboxylic acid ($C_7H_6O_2$), occurring in nature in free and combined forms. Among the foods in which benzoic acid occurs naturally are cranberries, prunes, plums, cinnamon, ripe cloves and most berries. Benzoic acid is manufactured by treating molten phthalic anhydride with steam in the presence of a chromate catalyst, by vapor phase decarboxylation of the phthalic anhydride with steam in the presence of a zinc oxide catalyst, by the hydrolysis of benzotrichloride, or by the oxidation of toluene with nitric acid or sodium bichromate or air.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2) and flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(7) *Sodium benzoate.* (i) Sodium benzoate is the chemical, benzoate of soda ($C_7H_5NaO_2$), produced by the neutralization of benzoic acid with sodium bicarbonate solution, followed by treatment with charcoal or potassium permanganate, filtration, and drying. The salt is not found to occur naturally.

(ii) The ingredient meets the specification of the Food Chemicals Codex 2d Ed. (1972).[1]

(iii) The ingredient is used as an antimicrobial agent as defined in § 121.1(o)(2) and flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

* * * * *

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein or listed in § 121.2005(b). Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21202 Filed 9-20-74;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

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## [21 CFR Part 121]

## PROPYL GALLATE

### Proposed Affirmation of GRAS Status as Direct Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035-20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review the safety of propyl gallate has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the GRAS status of this ingredient.

Propyl gallate is the propyl ester of 3,4,5-trihydroxybenzoic acid. It is listed in § 121.101(d)(2) as GRAS for use as a food preservative at a maximum total antioxidant content of 0.02 percent of fat or oil content, including essential (volatile) oil content of the food, pursuant to a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368).

Propyl gallate has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 627 abstracts on propyl gallate was reviewed and 31 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which propyl gallate was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to propyl gallate. The total propyl gallate used in food in 1970 is reported to be 96,420 pounds as compared with 88,901 reported for 1960.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Orally-administered propyl gallate and other alkyl esters of gallic acid undergo cleavage of the ester linkage. The gallic acid portion is metabolized and excreted mainly (about 72 percent) as the glucuronide of 4-0 methyl gallic acid. The main pathway of metabolism appears to be the initial methylation of the hydroxyl group in the 4 position, followed by conjugation with glucuronic acid other excretion products and include 4-0-methyl gallic acid, gallic acid pyrogallol, accounting for some 80 percent of the administered propyl gallate in rabbits. It has been suggested that the nature and relative amounts of the excretion products may depend on the availability of methyl-donors in the diet.

The oral $LD_{50}$ of propyl gallate in mice is reported to be in the range of 2,000 milligrams per kilogram to 3,500 milligrams per kilogram; in the rat, 3,000 to 3,800; in the hamster, 2,480; and in the rabbit, 2,750.

The following short-term studies (extending for less than half of the life span of the

species) are relevant, although conflicting and difficult to interpret.

Diets containing 0.002 percent or 0.004 percent propyl gallate were fed to rats for 13 weeks. No differences were noted in protein and fat utilization or in survival time for the experimental animals as compared to the controls.

A delayed increase in weight in rats and mice was reported when the animals were fed propyl gallate at levels of 1/5 to 1/10 of the $LD_{50}$ for 10 weeks. There was also reduced blood catalase, peroxidase, and cholinesterase activity.

Rats fed a diet containing a mixture of 50 milligrams per kilogram of propyl gallate and 100 milligrams per kilogram of butylated hydroxytoluene daily for 10 weeks showed normal weight gains. Decreased blood cholinesterase, catalase, and glucose levels were noted after 3 weeks, but they returned to normal by the end of the experimental period.

Some investigators have stated that indices of fertility and physical endurance as well as weight increments were unaffected when female albino rats were fed propyl gallate at a level of 202 milligrams per kilogram per day. The authors indicate that this dosage amounts to about 35 times the level of human intake.

Daily administration of a mixture of propyl gallate (10 milligrams per kilogram) and butylated hydroxyanisole (20 milligrams per kilogram) was reported to increase male rat mortality and sterility with a decrease in blood ketone bodies and no change in blood sugar level or in blood catalase or cholinesterase activity.

Male albino rats fed a diet consisting of sunflower seed oil and animal fat to which 0.02 percent of propyl gallate was added, showed markedly lower weight gains and delayed development; the nutritional value of the fat tended to be lower than in the controls.

Propyl gallate, fed at a level of 0.1 percent for 6 weeks to weanling male and female Norway Hooded rats, elicited no effect on serum cholesterol level.

Male albino rats, fed 4 milligrams of propyl gallate daily in lard, showed somewhat lower assimilation of fat than the control animals.

Propyl gallate and certain other antioxidants are reported to inhibit the liberation of fatty acids from adipose tissue as measured by examination of the epididymis of Wistar rats, starved for 16 hours and treated with adrenaline to activate fatty acid mobilization.

In studies to test for teratogenicity, pregnant Walter Reed-Carworth Farms rats, fed 500 milligrams of propyl gallate, showed 18.3 percent of implantations terminating in resorptions compared to 10.6 percent in control animals. In the same report resorptions due to feeding ascorbic acid, glutathione, and butylated hydroxytoluene at equivalent levels were 15.3, 13.9 and 2.4 percent, respectively. The feeding of 0.025 to 0.075 percent propyl gallate to vitamin E deficient rats resulted in decreased incidence of congenital abnormalities in the offspring.

The following significant longer-term studies have been reported:

Rats fed diets containing as much as 0.117 percent, and guinea pigs and dogs as much as 0.0117 percent propyl gallate for 1 to 2 years showed no adverse changes in gross appearance, growth, hemoglobin reproduction (guinea pig), renal function (dog), erythrocyte and leucocyte levels (rat), or in the histology of the liver, kidneys, spleen, stomach, gonads, lungs, or heart (rat and guinea pig). Feeding of higher levels (1.17 percent or more) of propyl gallate to rats led to some growth inhibition, lowered hemoglobin levels, and kidney damage.

Rats fed 1 percent propyl gallate in the diet for their entire life span showed no adverse effects.

Young Wistar rats were fed for as long as a year on diets to which propyl gallate, butylated hydroxyanisole, and chlorine dioxide were added at levels 50 times those normally used in bread ingredients. No adverse effects were noted on growth, mortality, organ weights, or histopathology tissues.

In one report a man ingested 0.5 gram of propyl gallate daily for 6 consecutive days. Examination of the urine during this period and for an additional 6 days thereafter revealed the presence of no albumin, blood or abnormal sediments or casts.

Feeding studies to test for carcinogenicity or mutagenicity of propyl gallate have not been reported. A number of reports record observations on the in vitro effects of propyl gallate on deoxyribonucleic acid (DNA) and on cell cultures but the relevance of these studies to the in vivo oral effects of propyl gallate in humans is not clear. However, the intraperitoneal administration of a single 180-milligram dose of propyl gallate to mice with Ehrlich ascites tumor and hepatomas was reported to inhibit tumor growth.

All of the available safety information on propyl gallate has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

Although interpretation of some reports is difficult, particularly where propyl gallate has been studied in mixtures with other antioxidants, it is evident that the no effect level of propyl gallate for the rat exceeds 100 milligrams per kilogram per day, and no effect levels of this order have also been reported for mice, guinea pigs, and dogs. The Select Committee regards as reasonable the estimate of the FAO/WHO Expert Committee on Food Additives of 100 milligrams per kilogram per day as the level of propyl gallate that causes no significant toxicological effect when fed to the rat. Using this estimate and the consumer exposure data, the highest no effect level of orally administered propyl gallate is more than 1,500 fold that usually present in an adult's daily diet and more than 400 fold that which would obtain if his diet were to consist only of those foods containing the maximum amount of propyl gallate. Also the highest no effect level is some 200 fold the maximum reported levels of consumption of children who consume propyl gallate at the highest rates.

It is the conclusion of the Select Committee that there is no evidence in the available information on propyl gallate that demonstrates a hazard to the public when it is used at current levels and in the manner now practiced or under conditions that might reasonably be expected in the future. Based upon his own evaluation of all available information on propyl gallate, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of propyl gallate is justified.

Copies of the Scientific Literature Review on propyl gallate, reports of the teratology screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Propyl gallate (scientific literature review). | PB–221–207 | $3.75 |
| Propyl gallate (teratology test) | PB–221–790 | 3.75 |
| Propyl gallate (teratology test) | PB–223–816/AS | 2.75 |
| Propyl gallate (FASEB evaluation). | PB–223–840/AS | 2.75 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of propyl gallate for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(2) by revising the entry for "Propyl gallate" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (2) CHEMICAL PRESERVATIVES | | |
| * * * | * * * | * * * |
| Propyl gallate | Total content of antioxidants not over 0.02 percent of fat or oil content, including essential (volatile) oil content of the food. | Affirmed as GRAS, § 121.104(g)(26). |
| * * * | * * * | * * * |

2. In § 121.104 by adding a new paragraph (g)(26) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(26) *Propyl gallate.* (i) Propyl gallate is the *n*-propylester of 3,4,5-trihydroxybenzoic acid ($C_{10}H_{12}O_5$). Natural occurrence of propyl gallate has not been reported. It is commercially prepared by esterification of gallic acid with propyl alcohol followed by distillation to remove excess alcohol.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as an antioxidant as defined in § 121.1(o)(3).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.015 percent in food.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 3, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21199 Filed 9–20–74;8:45 am]

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## [21 CFR Part 121]

## GUAR GUM

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient and Affirmation of GRAS Status as Indirect Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs has issued tions resulting from those proposals. Pursuant to this review, the safety of guar gum has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the direct use of guar gum in food as GRAS with specific limitations and to affirm guar gum as GRAS when used in packaging material.

Guar gum is the natural gum obtained by maceration of the seeds of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub., or *Cyamopsis psoraloides*, (Lam.) D.C., family leguminosae. Guar gum is sometimes referred to as guar flour if obtained by macerating the endosperm portion of the seed. Guar gum does not have a completely descriptive chemical name. It is a polysaccharide composed of D-galactopyranose and D-mannopyranose units. Guar gum has been listed in § 121.101(d)(7), published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368), as GRAS as a food stabilizer, and in § 121.101(h) for paper and paperboard and in § 121.101(i) for cotton and cotton fabrics, published in the FEDERAL REGISTER of June 10, 1961 (26 FR 5421), as GRAS for paper and paperboard packaging. The whole plant is reported to be grazed in the field and the processed gum has a multitude of human and animal food ingredient uses.

Guar gum has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 116 abstracts on guar gum was reviewed and 21 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which guar gum was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to guar gum. The total poundage used in food increased about 4 fold between 1960 and 1970. The 1960 total poundage used in food was 1.1 million.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Acute toxicity studies in rats have shown that, at levels up to 30 percent of the diet, guar gum is not toxic, except that it may cause intestinal obstruction because of the physical properties of the gum. An appreciable portion of the ingested gum was found to be utilized as a calorie source by rats. At 5 percent of the diet there were no adverse effects on weight gain, or on the liver, kidney, or blood-forming tissues, after 6 months.

Monkeys fed 1 gm per day (about 200 mg per kg per day) for 6 months showed no apparent adverse effects. Chickens fed a diet containing 2 percent guar gum grew more slowly than controls but growth inhibition seemed to be counteracted by adding a pectinase to a processed guar gum meal diet.

No additional information on the long-term effects of consuming guar gum or on its absorption, digestion, metabolism, or excretion has been uncovered.

Mutagenicity tests of guar gum by three different methods have been conducted. In the course of these studies, it was determined that guar gum given once orally as a suspension in corn oil at a dose of 10 g per kg caused no deaths in rats; oral doses of 5 g per kg for five days produced no adverse effects. Guar gum did not elicit a measurable mutagenic response in the host-mediated assay test or cause alteration in the recombination frequency for *Saccharomyces cerevisiae* or for *Salmonella typhimurium* in the associated in vitro tests. However, *S. cerevisiae* showed an increased mitotic recombination frequency when the cells were exposed to either 1 or 5 percent guar gum concentrations, and the gum was quite toxic to the cells at these concentrations. In the cytogenetic assay, guar gum did not adversely affect rat bone marrow cell chromosomes, but it caused a large increase in the number of aberrant anaphase cells in human embryonic lung cells in culture when tested in vitro. The significance of these differences in the cytogenetic assays are unclear. No consistent responses occurred in the dominant lethal gene test.

Teratologic tests on three species of animals were negative. Oral intubation of up to 170 mg per kg of guar gum daily to pregnant mice on day 6 through day 15 of gestation had no clearly discernible effect on nidation or on maternal and fetal survival. However, at a level of 800 mg per kg, 6 of 29 dams died. The surviving dams produced normal litters. In rats, the administration of up to 900 mg per kg of guar gum daily on day 6 through 15 of gestation, and in hamsters, the administration of up to 600 mg per kg of guar gum daily on day 6 through day 10 of gestation, produced no teratological effects and had no significant effect on nidation, or on maternal or fetal survival. It should also be noted in this regard that the mutagenic studies cited above included higher doses, i.e. oral intubation of guar gum (in corn oil) at a daily dose of 5 g per kg for five consecutive days to adult male rats without adverse effects.

No evidence of carcinogenic or allergenic activity of guar gum has been reported.

The Joint FAO/WHO Expert Committee on Food Additives has established a temporary acceptable daily intake of guar gum for man of 0 to 125 mg per kg of body weight.

All of the available safety information on guar gum has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

The available information reveals that there are no adverse short term toxicological consequences in animals of consuming guar gum in amounts exceeding those currently consumed in the normal diet of the U.S. population. In addition, there is no evidence that the consumption of guar gum by man has had adverse effects in India or Pakistan,

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

where it has long been used as food, or in the U.S., where it has been used in foods since 1949. However, it should be noted that no long term animal feeding studies of guar gum have been reported. While the available information does not suggest long term toxicity, it may be advisable in due course to conduct adequate feeding studies in several species, including pregnant animals, at dosage levels that approximate and exceed the current estimated maximum daily human intake.

Guar gum, fed at relatively high levels, is reported to be toxic to pregnant mice. Because these toxic levels reported are well in excess of the highest levels now consumed by man, the Select Committee is of the opinion that there are no adverse health aspects of consuming guar gum at current levels. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

It is the conclusion of the Select Committee that there is no evidence in the available information on guar gum that demonstrates a hazard to the public when it is used at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of all available information on guar gum, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of guar gum requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists. The Commissioner further concludes that use of guar gum in food packaging does not contribute significantly to the guar gum content of the packaged food and thus should be affirmed as GRAS for this purpose.

Copies of the Scientific Literature Review on guar gum, reports of the teratology and mutagenic screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfiled, VA 22151, as follows:

| Title | Ordering number | Cost |
|---|---|---|
| Guar Gum (scientific literature review). | PB–221–216 | $3.75 |
| Guar gum (mutagenic tests) | PB–221–815 | 5.45 |
| Guar gum (teratology tests) | PB–221–800 | 3.75 |
| Guar gum (teratology tests) | PB–223–819/AS | 2.75 |
| Guar gum (FASEB evaluation). | PB–223–836/AS | 2.75 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

These proposed actions do not affect the present use of guar gum for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Guar gum" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (7) STABILIZERS | | |
| * * * | * * * | * * * |
| Guar gum | | Affirmed as GRAS § 121.104(g)(27) and § 121.105(f)(2). |
| * * * | * * * | * * * |

* * * * * * * *

2. In § 121.104 by adding a new paragraph (g)(16) to read as follows:

§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

* * * * *

(g) * * *

(27) *Guar gum.* (i) Guar gum is the natural substance obtained from the maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub., or *Cyamopsis psoraloides* (Lam.) D. C.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972),[1]

(iii) The ingredient is used in food under the following conditions:

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Baked goods and baking mixes, §121.1(n)(1) | 0.2 | Emulsifier and emulsifier salt, § 121.1(o)(8); stabilizer and thickener, § 121.1(o)(28). |
| Breakfast cereals, § 121.1(n)(4) | 1.2 | Stabilizer and thickener, § 121.1(o)(28). |
| Cheeses, § 121.1(n)(5) | 0.8 | Stabilizer and thickener, § 121.1(o)(28). |
| Processed vegetables and vegetable juices, § 121.1(n)(36). | 1.1 | Stabilizer and thickener, § 121.1(o)(28). |
| Sweet sauces, toppings, and sirups, § 121.1(n)(43). | 1 | Stabilizer and thickener, § 121.1(o)(28). |
| All other food categories | 0.5 | Emulsifier and emulsifier salt, § 121.1(o)(8); flavoring agent and adjuvant § 121.1(o)(12); stabilizer and thickener § 121.1(o)(28). |

* * * * * * * *

3. In § 121.105 by adding a new paragraph (f)(2) to read as follows:

§ 121.105 Substances in food contact surfaces affirmed as generally recognized as safe (GRAS).

* * * * *

(f) * * *

(2) *Guar gum.* (i) Guar gum is the natural substance obtained from maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub., or *Cyamopsis psoraloides* (Lam.) D. C.

(ii) The ingredient meets specifications of the Food Chemical Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used or intended for use as a constituent of food packaging containers and becomes a component of food only through migration from this surface.

(iv) The ingredient is used at levels not to exceed good manufacturing practice.

* * * * *

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21197 Filed 9-20-74;8:45 am]

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## [21 CFR Part 121]

## GUM ARABIC (ACACIA)

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient and Affirmation of GRAS Status as Indirect Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035-20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review, the safety of gum arabic has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the direct use of gum arabic in food as GRAS with specific limitations, and to affirm its GRAS status for use in food-contact articles.

Gum arabic (acacia) is listed in § 121.101(d)(7), published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), as GRAS as a food stabilizer; and in § 121.101(i), published in the FEDERAL REGISTER of June 10, 1961 (26 FR 5224), as GRAS for substances migrating from cotton and cotton fabrics used in dry food packaging. Gum arabic is the dried, gummy exudate obtained from stems and branches of trees belonging to the various species of the genus *Acacia*. The number of species of the genus *Acacia* has been estimated by various investigators at from 500 to 900. Almost all of the gum used in the United States is imported from the Sudan Republic and is obtained from *Acacia senegal* Linne. Analysis shows this gum to be the calcium, magnesium, and potassium salts of a polysaccharide acid, arabic acid. It is composed of about 30 percent L-arabinose, 37 percent D-galactose, 11 percent L-rhamnose and 14 percent glucuronic acid. The molecular weight is believed to vary from about 250,000 to 1,000,000.

Gum arabic has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 388 abstracts on gum arabic was reviewed and 45 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

Gum arabic is probably the oldest and best known of the vegetable gums, reported to be first used in the United States in 1880. A representative cross-section of food manufacturers was surveyed to determine the specific foods in which gum arabic was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to gum arabic. The total poundage of gum arabic used by the U.S. food industry in 1970 was 10.4 million pounds, about three times that used in 1960.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

#### ABSORPTION AND METABOLISM

The available information does not establish clearly the fate of ingested gum arabic. In one study, rats were fed for one week on a basal ration supplemented with various levels of gum arabic. Using a method involving restricted food and caloric intakes, gum arabic fed to weanling male Sprague-Dawley rats at dietary levels of 0.5 g per day and 2 g per day was shown to have caloric values of 131 percent and 110 percent of corn starch, respectively. In a similar study, gum arabic fed to weanling rats, at a level of 1 g per day was shown to have a caloric value 75 percent that of sucrose. While both of these studies suggest absorption of gum arabic or some digestion product, an earlier study did not support these observations. Using a test for glycogenesis rats were fed high levels (34 percent gum arabic) in a single meal. Seventy-two hours later hepatic glycogen levels were determined. It was concluded that the difference in liver glycogen between the control and gum-fed rats was insignificant.

As in the rat, the guinea pig appears to have some ability to utilize gum arabic for energy. Two feeding studies have indicated that gum arabic exhibits growth-promoting effects. In one study, 89 to 95 percent digestibility was reported, while in the other, about 70-80 percent of normal growth rate was reported and the investigators appeared to emphasize the need for the intact gum molecule.

The rabbit also appears to be able to utilize gum arabic. A total caloric value for gum arabic slightly greater than that for starch has been reported. In the same study, evidence for glycogenesis was demonstrated.

In one study with humans, no evidence for absorption of the intact gum molecule was found. In this study, 22 infants 1 to 15 months old were fed 15 to 20 g per day of gum arabic in milk. No urinary pentose excretion was observed, while significant excretion of gum arabic occurred in the stools.

It would appear, then, that gum arabic is capable of being digested to simple sugars in herbivores, and to some extent in omnivores such as man. After absorption, the digestion products are available for oxidation. Conclusive evidence indicating that the intact gum arabic molecule is absorbed under normal conditions is lacking.

#### SHORT TERM STUDIES

Several short term feeding studies have been made with laboratory animals. In one, guinea pigs were fed a synthetic diet for 6 weeks and the effects of various supplements were noted. The animals on a gum arabic supplement showed a slightly lower growth rate than did the control animals. Similar results were obtained in a succeeding study in which the effects of various mineral supplements were noted. In both studies it appears that the basal ration was deficient in some way. In spite of this, gum arabic tended to improve growth rate. When the influence of feeding gum arabic on the intestinal synthesis of vitamin $B_{12}$ was examined, it was shown not only to permit growth in guinea pig but also to promote the intestinal synthesis of the vitamin. In rabbits the ingestion of diets providing 20 percent by weight of gum arabic permitted significant growth with no evidence of deleterious effects.

Studies in mice, rats, hamsters, and rabbits showed no clearly discernible teratological effects with oral doses of gum arabic up to 1,600 mg per kg per day in mice, rats, and hamsters, and up to 37 mg per kg per day in rabbits, when each animal was treated daily for 10 days (5 days in hamsters and 13 days in rabbits), starting at the sixth day of gestation. However, at a dose level of 800 mg per kg per day in rabbits, a majority of the dams died.

No mutagenic effect was noted in the recombination frequency in a host-mediated assay in mice, and no mutagenic effects were noted in a dominant lethal gene test in rats. However, a moderate effect was observed in the cytogenetic effect assay in bone marrow after in vivo treatment with 5.0 g per kg and 2.5 g per kg in rats. In general, these represented chromosomal breaks rather than recombinations and occurred within 6 hours after treatment. Similar effects were found in in vitro tissue cultures of human embryonic lung cells.

Neither oral $LD_{50}$ values nor long term gum arabic feeding studies have been reported.

#### OTHER STUDIES

There are several reports on the effect of parenterally administered gum arabic in man and other animals.

Treatment with intraperitoneal doses of gum arabic three times per week for up to 15 weeks in rats revealed no evidence of carcinogenicity. Solutions in saline or water containing 1.75 or 7.00 percent gum arabic were used. The size of dose is difficult to ascertain from the data presented, but it appears that levels were of the order of several hundred mg per kg. In a similar study with mice, no carcinogenic effect was noted, but amounts of gum arabic injected are not indicated. Injections of as much as 4.8 g of gum arabic per kg in dogs elicited no evidence of toxic effects but the same dose level killed dehydrated dogs, the highest no effect level being 1.9 g per kg.

The intravenous $LD_{50}$ of sodium arabinate, specially prepared from calcium arabinate by alcohol precipitation from an aqueous sodium chloride solution, can be estimated as 1 g per kg in rabbits from data reported. The effect of single and repeated intravenous doses of gum arabic solution in dogs was investigated. Total doses ranged from about 1 to 2 g per kg given over a period ranging from 1 to 84 days. The most characteristic finding was that of enlarged livers and swollen kidneys. Similar levels of gum arabic were fatal to two rabbits.

A similar study in which doses ranging from 16 to 48 g per kg were given intravenously over 76 days to three dogs showed gum arabic to be stored in the liver for as much as

2 years after cessation of dosing in the two dogs that survived. The dog administered gum arabic at the level of 48 g per kg died 6 months after cessation of the treatment. No functional hepatic injury was noted, but large amounts of gum arabic were found in the liver.

Hospitalized patients have received gum arabic solutions intravenously as a part of therapy in an attempt to develop a blood plasma substitute in the treatment of shock. These early trials conducted between 1922 and 1937 proved unsuccessful. They do provide an estimate of the intravenous acute toxicity of this relatively crude substance for man to be of the order of 150 to 600 mg per kg.

Other human studies on patients with nephrosis, as well as studies on dogs and rabbits, showed that intravenously injected gum arabic or some product associated with it accumulated in the liver and remained in the tissues for several months. Non-lethal effects included serious disturbances in hemoglobin, white blood cells, and serum proteins. These investigators also noted that in the nephrotic patient about 20 percent of the gum arabic injected over a period of 6 weeks was excreted in the urine. Similar accumulation effects have been noted in other animal studies. Studies have also been reported to indicate the mobilization of gum arabic from storage in various organs.

These observations become more important when considered in terms of the possible oral allergenicity of gum arabic. Studies in animals have shown that the antigenic property of the gum is a function of the gum itself and not of a contaminant. Other studies have confirmed that sensitivity to gum arabic is in fact a true antibody-antigen phenomenon and not an artifact of some other metabolic event. Human sensitivity to gum arabic has been suggested in a number of reports of work-associated allergic reactions to the gum. However, the most carefully documented series of studies on human subjects and their response to oral administration of vegetable gums in general and gum arabic in particular is that of Gelfand. In 10 sensitive patients, vegetable gums in their food were confirmed as the allergens responsible for their sensitivity. Moreover, Gelfand was also able to show cross-sensitivity with several other gums such as tragacanth and karaya.

In general, the foregoing studies suggest a systemic effect of gum arabic when administered intravenously. Moreover, there appears to be in certain susceptible individuals signficant allergic response to ingestion of this gum.

All of the available safety information on gum arabic has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

In common with many other food ingredients of natural origin, commercial gum arabic is a relatively crude and undefined material. In view of the demonstrated capacity of this material as a sensitizing agent, and despite strong indications that sensitization is due to the gum polysaccharide itself, it becomes important to know, nevertheless, to what extent extraneous contaminants such as protein may be contained in the commercial product. The Select Committee suggests consideration of revising the specifications for gum arabic to establish limits for the content of materials such as protein that may possibly be associated with some of the observed biological effects of the commercial gum.

In view of the prevalance of allergies to gum arabic, and its increasing use in a wide variety of food products, additional experiments should be undertaken to evaluate the significance of its allergenicity in the population as a whole. An epidemiological survey might determine whether significant numbers of persons are being placed in a state of receptiveness to cross-reactive allergies based upon daily lifelong exposures to gum arabic and two other gums alleged to be allergenic, gum tragacanth and karaya gum.

Gum arabic, fed at relatively high levels, is reported to be toxic to pregnant animals of one species. Hence it may be advisable, in due course, to conduct feeding studies in several animal species, including pregnant animals, at dosage levels that approximate and exceed the current maximum daily human intake.

It is the conclusion of the Select Committee that there is no evidence in the available information on gum arabic that demonstrates a hazard to the public when it is used at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based on his own evaluation of all available information on gum arabic, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of gum arabic requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists.

The Commissioner, in reaching this conclusion, recognizes that many substances occurring in nature may produce allergic type reactions in susceptible individuals. As an indication of the large variety of materials which have been implicated, there can be mentioned dusts of various kinds, pollens, feathers, seeds, dandruff, and foods. In general, sensitive individuals may react with a number of responses which may include, among others, angioedema, urticaria, bronchial asthma, pruritis, and vascular purpura. In some instances, these reactions may be life threatening. Within the past several decades there has accumulated a body of evidence which indicates that food ingredients may indeed produce sensitization in susceptible individuals, and these include gum tragacanth, gum arabic, and sterculia (karaya) gum. However, the data on these gums do not suggest an incidence of reactions sufficiently greater than those produced by other foods, to justify a conclusion at this time that they are not GRAS.

The Food and Drug Administration has been concerned about allergies, involving cosmetics and drugs, as well as food ingredients, and concurs with the suggestion of the Select Committee that a survey of the allergenic effects of tragacanth, arabic, and sterculia gums is needed. However, such a study should consider more than these three gums.

Funds of approximately $250,000 have been provided for this fiscal year to contract for information on how to predict human intolerances to food ingredients, and an analysis of human intolerance case histories. The results of these contracts should provide the agency with the necessary information to channel resources to minimize allergic reactions from food to the degree possible.

Meanwhile, the Commissioner is of the opinion that the particular gums used should be specifically named on the labels of all foods. Proposals to amend certain food standards to require the naming of the specific gum(s) used are in process and will be published in the future.

Copies of the Scientific Literature Review on gum arabic, reports of the teratology and mutagenic screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Gum arabic (scientific literature review). | PB–221–201 | $4.85 |
| Gum arabic (teratology tests) | PB–221–796 | 4.50 |
| Gum arabic (mutagenic tests) | PB–221–821 | 5.45 |
| Gum arabic (FASEB evaluation). | FDABF–GRAS–207. | 3.00 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of gum arabic for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Acacia (gum arabic)" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (7) STABILIZERS | | |
| Acacia (gum arabic) | | Affirmed as GRAS, § 121.104(g)(19); affirmed as GRAS for food-contact surfaces, § 121.105(f)(4). |
| * * * | * * * | * * * |

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2. In § 121.104 by adding a new paragraph (g)(19) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(19) *Gum arabic.* (i) Gum arabic is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia*, family Leguminosae.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Chewing gum, § 121.1(n)(6) | 5.6 | Flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); humectant, § 121.1(o)(16); surface-finishing agent, § 121.1(o)(30). |
| Confections and frostings, § 121.1(n)(9) | 12.4 | Formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28); surface-finishing agent, § 121.1(o)(30). |
| Dairy product analogs, § 121.1(n)(10) | 1.3 | Stabilizer and thickener, § 121.1(o)(28). |
| Fats and oils § 121.1(n)(12) | 1.5 | Stabilizer and thickener, § 121.1(o)(28). |
| Hard candy and cough drops, § 121.1(n)(25) | 31.0 | Flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14). |
| Snack foods, § 121.1(n)(37) | 2.9 | Emulsifier and emulsifier salt, § 121.1(o)(8). |
| Nuts and nut products, § 121.1(n)(32) | 8.3 | Formulation aid, § 121.1(o)(14); surface-finishing agent, § 121.1(o)(30). |
| Soft candy, § 121.1(n)(38) | 85.0 | Emulsifier and emulsifier salt, § 121.1(o)(8); firming agent, § 121.1(o)(10); flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); humectant, § 121.1(o)(16); stabilizer and thickener, § 121.1(o)(28); surface-finishing agent, § 121.1(o)(30). |
| All other food categories | 1.0 | Emulsifier and emulsifier salt, § 121.1(o)(8); flavoring agent and adjuvant, § 121.1(o)(12); formulation aid, § 121.1(o)(14); stabilizer and thickener; § 121.1(o)(28). |

3. In § 121.105 by adding a new paragraph (f)(4) to read as follows:

**§ 121.105 Substances in food contact surfaces affirmed as generally recognized as safe (GRAS).**

* * * * *

(f) * * *

(4) *Gum arabic.* (i) Gum arabic is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia*, family Leguminosae.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used or intended for use as a constituent of food packaging containers.

(iv) The ingredient is used at levels not to exceed good manufacturing practices.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21196 Filed 9–20–74;8:45 am]

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## [21 CFR Part 121]

## GUM GHATTI

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review, the safety of gum ghatti has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the direct use of gum ghatti in food as GRAS with specific limitations.

Gum ghatti, or Indian gum, has been listed in § 121.101(d)(7), published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), as GRAS as a food stabilizer. Gum ghatti is obtained as an exudate from wounds in the bark of *Anogeissus latifolia*, a large tree in the dry deciduous forests of India and Ceylon. The gum is basically the calcium salt of ghatti acid, a complex polysaccharide whose exact chemical structure is obscure and has not been determined. The dried gum has considerable nonfood use, primarily in oil-drilling muds, and is also used in drugs and cosmetics. Other parts of the tree from which this exudate is obtained have no reported human food or food ingredient uses. This proposal covers only the gum whose food ingredient uses began as early as 1938 in the United States.

Gum ghatti has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 19 abstracts on gum ghatti was reviewed and 9 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which gum ghatti was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to gum ghatti. The total gum ghatti used in food in 1970 is reported to be a little more than 4,000 pounds. No data or information on use in prior years is available.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Very little biological and toxicological data are available on gum ghatti in animals or man. Nothing is known about the absorption, distribution, metabolism or excretion of the gum in man or in animals and no short term or long term feeding experiments in laboratory animals have been reported.

Tests on mutagenicity and teratogenicity of gum ghatti have only recently been completed.

Mutagenic tests on rats and mice using three different methods gave negative results. There was no measurable mutagenic response or alteration in the recombination frequency for *Saccharomyces cerevisiae* in either the host-mediated assay or the associated in vitro tests. No adverse effects were observed on either metaphase chromosomes from rat bone marrow or anaphase chromosomes from in vitro cultures of human embryonic lung cells at any of the doses or time periods tested. No significant adverse responses were noted in the dominant lethal gene test on rats.

Teratologic tests on four species of animals were negative. Oral intubation of up to 1,700 mg of gum ghatti in anhydrous corn oil to pregnant mice from day 6 through day 15 of gestation exerted no clearly discernible effect on nidation or on maternal or fetal survival. The frequency of abnormalities in either the soft tissues or skeletal tissues of the fetuses in the tet groups did not differ from those occurring spontaneously in the sham-treated controls. The same negative reaction was exhibited by pregnant hamsters administered up to 1,700 mg per day from day 6 through day 10 of gestation. In the case of rats dosed in a similar manner (day 6 through day 15 of gestation), no untoward results were obtained at levels up to 370 mg per kg. At 1,700 mg per kg, however, 5 out of 24 dams died. The surviving rats bore their living young to term and delivered healthy litters. A comparable response to that in rats was shown by pregnant rabbits at 33 mg per kg and 150 mg per kg, respectively, dosed from day 6 through day 18 of gestation.

It should be noted that in connection with the mutagenicity studies cited above, gum ghatti was administered to rats by oral intubation in corn oil in doses of 10 g per kg for 1 day and 5 grams per kg for 5 successive days. None of the 10 male Sprague-Dawley rats (weighing 200–250 g each) in either experiment died. The oral toxicity for multiple doses was reported to be greater than 5 g per kg.

No studies of the carcinogenicity or allergenicity of gum ghatti have been reported.

All of the available safety information on gum ghatti has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

There is no evidence that consumption of gum ghatti by man has adverse effects when used at present levels. However, this presumption of lack of hazard is based primarily on the absence of evidence of human toxicity, rather than on substantive evidence supporting this conclusion. In view of the sparseness of toxicity data, the Select Committee attaches greater possible significance to the preliminary evidence indicating the maternal toxicity of gum ghatti at very high oral doses to pregnant rats and rabbits than it might otherwise accord these few data. It may be advisable, in due course, to conduct feeding studies in several animal species, including pregnant animals, at dosage levels that approximate and exceed the current estimated maximum daily human intake.

It is the conclusion of the Select Committee that there is no evidence in the available information on gum ghatti that demonstrates a hazard to the public when it is used as a food ingredient at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of all available information on gum ghatti, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of gum ghatti requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists.

Copies of the Scientific Literature Review on gum ghatti, reports of the teratology and mutagenic screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order No: | Cost |
|---|---|---|
| Gum Ghatti (Scientific Literature Review) | PB-221-213 | $3.00 |
| Gum Ghatti (Teratology Tests) | PB-221-799 | 4.50 |
| Gum Ghatti (FASEB Evaluation) | PB-223-841/AS | 2.75 |
| Gum Ghatti (Mutagenic Tests) | PB-221-822 | 4.85 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of gum ghatti for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055–1056, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Gum ghatti" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * * |
| (7) STABILIZERS | | |
| * * * | | * * * |
| Gum ghatti | | Affirmed as GRAS, § 121.104(g)(17). |
| * * * | | * * * |

2. In § 121.104 by adding a new paragraph (g)(17) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(17) *Gun ghatti.* (i) Gun ghatti (Indian gum) is an exudate from wounds in the bark of *Anogeissus latifolia*, a large tree found in the dry deciduous forests of India and Ceylon.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Beverages and beverage bases, nonalcoholic, § 121.1(n)(3). | 0.2 | Emulsifier and emulsifier salt § 121.1(o)(8). |
| All other food categories | .1 | Emulsifier and emulsifier salt § 121.1(o)(8). |

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21201 Filed 9-20-74;8:45 am]

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## [ 21 CFR Part 121 ]

## GUM TRAGACANTH

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review, the safety of gum tragacanth has been evaluated. In accordance with provisions of § 121.40 the Commissioner proposes to affirm the direct use of gum tragacanth in food as GRAS with specific limitations.

Tragacanth (gum tragacanth) has been listed in § 121.101(d)(7), published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), as GRAS as a food stabilizer. Gum tragacanth, *Astragalus gummifer* Lab., or other Asiatic species of *Astragalus* have been in U.S. food production since 1925. Gum tragacanth is one of the oldest natural emulsifiers known. It has been recognized in the U.S. Pharmacopeia since 1820. Tragacanth is a complex mixture of polysaccharides containing galactose, fructose, xylose, arabinose, and acidic components largely present as calcium, magnesium, and potassium salts. Tragacanth is considered to contain two primary constituents, bassorin and tragacanthin. The lesser component, tragacanthin, is water soluble and contains 3 molecules of a uronic acid and 1 molecule of arabinose, with a side chain of 2 molecules of arabinose. The larger component, bassorin which swells but is insoluble in water, is believed to contain polymethoxylated acids that yield tragacanthin upon demethoxylation. The dried gum has been used as a stabilizer and thickening agent in foods. The shrub from which this gum is obtained has no reported human food or food ingredient uses. This proposal covers only the food ingredient uses of the gum obtained from the tap roots of the plant.

Gum tragacanth is the dried exudate from the incised roots and stems of the shrub-like plants of the genus *Astragalus*. *Astragalus gummifer* Labillardiere is said to be the principal species from which the gum is obtained in the dry mountainous regions of Asia Minor, Iran, Syria, and Turkey.

Gum tragacanth has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 159 abstracts on gum tragacanth was reviewed and 17 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which the gum tragacanth was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to gum tragacanth. The total gum tragacanth used in food in 1970 is reported to be 1.52 million pounds. The total imports of gum tragacanth for all purposes were 1.71 million pounds in 1970. The average imports for the 8 years, 1964 through 1971, were 1.88 million pounds of gum tragacanth.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Kratzer and co-workers have studied the nutritive value of gum tragacanth in poultry feeds, in comparison with other sources of carbohydrate. A control group of day-old chicks was fed a nutritionally balanced stock diet, ad lib. Test groups received the stock diet modified with 2 percent gum tragacanth. After 3 weeks, the checks receiving tragacanth exhibited a 34-percent depression of the growth rate. Similar effects were noted in separate tests of chicks receiving guar gum, carob bean gum, gum karaya, carrageenan, dried okra, or psyllium husk. The growth depression was not attributed to dilution of the energy content of the diet, inasmuch as the addition of 2 percent cellulose to the stock diet caused little or no depression. The cause of the inhibitory effect was not reported.

Galbraith et al. investigated the mechanism whereby tragacanth powder inhibits ascites tumor growth in mice. The evidence indicated that tragacanth acts indirectly as a mitotic block by becoming attached to the cellular membrane. The observed effects occurred in the interphase or early prophase cell.

Riccardi et al. showed that gum tragacanth fed to cockerels at a level of 3 percent, together with 3 percent cholesterol, inhibited the development of hypercholesterolemia.

Gum tragacanth is known to induce an allergic response by ingestion, contact, or inhalation; with respect to the incidence or severity of these reactions, it resembles many allergens commonly encountered in the diet. Cases of sensitivity to tragacanth are reported by Gelfand and by Brown and Crepea. The latter workers state that very small amounts of tragacanth (0.5 mg per kg of body weight, daily for a week) can cause severe symptoms when ingested by susceptible individuals. Also, they report that among the gums, the three most common allergens, in order, are acacia (arabic), karaya, and tragacanth.

Zawhry et al. in 1963 reported that tragacanth powder, given orally in the amount of 3 g per day to patients suffering from dermatitis, had markedly anti-allergenic therapeutic value. They also stated that an amount equivalent to 150 times the therapeutic dose, given orally to mice for 15 days, caused no deaths. However, the data given in the report were insufficient to permit an evaluation of the experimental method, results, or conclusions.

In 1969, Frohberg et al. reported lethal effects of tragacanth on mice. However, subsequent investigation indicated that metabolic products or enteric bacteria were responsible for the lethality.

Perhaps the most significant observations on the toxicity of gum tragacanth are a by-product of research on the teratogenicity of the substance conducted by Food and Drug Research Laboratories under contract from the Food and Drug Administration. Pregnant animals were fed by oral intubation with suspensions of gum tragacanth at the following levels:

Mice, 1,200 mg per kg for 10 consecutive days.

Rats, 210 mg per kg for 10 consecutive days.

Hamsters, 900 mg per kg for 5 consecutive days.

Rabbits, 33 mg per kg for 13 consecutive days.

At these levels, there was no discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in both soft and skeletal tissues of the test groups did not differ from the number occurring spontaneously in sham-treated controls. However, at higher levels of feeding, significant toxic effects were produced in some groups of animals, as follows:

(1) In pregnant rats dosed at 1,200 mg per kg, significant maternal toxicity ensued with loss of 6 out of 22 pregnant rats. Death was accompanied by severe diarrhea and urinary incontinence with anorexia in the terminal 48 to 72 hours. At autopsy there were no gross pathological findings apart from marked petechial hemorrhage in the mucosae of the small intestine. Rats that survived this high dose and bore living young to term, remained outwardly normal, and the offspring were likewise normal in all respects.

(2) In pregnant rabbits dosed at 150 and 700 mg per kg, significant maternal toxicity ensued with the loss of a majority of the animals. In all other respects, the foregoing observations on pregnant rats applied to the rabbits.

No studies of the carcinogenicity or mutagenicity of gum tragacanth have been found in the literature surveyed.

All of the available safety information on gum tragacanth has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research

Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

Since uncertainties exist with respect to the prevalence of allergies to gum tragacanth, additional experiments should be undertaken to evaluate the significance of its allergenic effects. A statistically significant survey, conducted by practicing allergists, would help to determine whether significant numbers of persons are being placed in a state of receptiveness to cross-reactive allergies based upon lifelong daily exposures to gum tragacanth and other two gums alleged to be allergenic (gum arabic and karaya gum).

Gum tragacanth fed at relatively high levels is reported to be toxic to pregnant animals of some species. Hence, it may be advisable, in due course, to conduct feeding studies in several animals species, including pregnant animals, at dosage levels that approximate and exceed the current estimated maximum daily human intake.

It is the conclusion of the Select Committee that there is no evidence in the available information on gum tragacanth that demonstrates a hazard to the public when used at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of all available information on gum tragacanth, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of gum tragacanth requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists.

The Commissioner, in reaching this conclusion, recognizes that many substances occurring in nature may produce allergic type reactions in susceptible individuals. As an indication of the large variety of materials which have been implicated, there can be mentioned dusts of various kinds, pollens, feathers, seeds, dandruff, and foods. In general, sensitive individuals may react with a number of responses which may include, among others, angioedema, urticaria, bronchial asthma, pruritis, and vascular purpura. In some instances, these reactions may be life threatening. Within the past several decades there has accumulated a body of evidence which indicates that food ingredients may indeed produce sensitization in susceptible individuals, and these include gum tragacanth, gum arabic, and sterculia (karaya) gum. However, the data on these gums do not suggest an incidence of reactions sufficiently greater than those produced by other foods, to justify a conclusion at this time that they are not GRAS.

The Food and Drug Administration has been concerned about allergies, involving cosmetics and drugs, as well as food ingredients, and concurs with the suggestion of the Select Committee that a survey of the allergenic effects of tragacanth, arabic, and sterculia gums is needed. However, such a study should consider more than these three gums.

Funds of approximately $250,000 have been provided for this fiscal year to contract for information on how to predict human intolerances to food ingredients, and an analysis of human intolerance case histories. The results of these contracts should provide the agency with the necessary information to channel resources to minimize allergic reactions from food to the degree possible.

Meanwhile, the Commissioner is of the opinion that the particular gums used should be specifically named on the labels of all foods. Proposals to amend certain food standards to require the naming of the specific gum(s) used are in process and will be published in the future.

Copies of the Scientific Literature Review on gum tragacanth, report of the teratology screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22141, as follows:

| Title | Order No. | Cost |
|---|---|---|
| Gum Tragacanth (Scientific Literature Review). | PB–221–204 | $3.00 |
| Gum Tragacanth (Teratology Tests). | PB–221–797 | 4.50 |
| Gum Tragacanth (FASEB Evaluation). | PB–223–835/AS | 2.75 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of gum tragacanth for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Tragacanth (gum tragacanth)" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * * | * * |
| (7) STABILIZERS | | |
| * * * | * * * | * * * |
| Gum tragacanth (Tragacanth) | | Affirmed as GRAS, § 121.104(g)(18). |
| * * | * * * | * * |

* * * * * * *

2. In § 121.104 by adding a new paragraph (g) (18) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(18) *Gum tragacanth.* (i) Gum tragacanth is the exudate from one of several species of *Astragalus gummifer* Labillardiere, a shrub that grows wild in mountainous regions of the Middle East.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Baked goods and baking mixes, § 121.1(n)(1) | 0.2 | Emulsifier and emulsifier salt, § 121.1(o)(8); flavoring agent and adjuvant, § 121.1(o)(28). |
| Fats and oils, § 121.1(n)(12) | 1.3 | Emulsifier and emulsifier salt, § 121.1(o)(8); stabilizer and thickener, § 121.1(o)(28). |
| Gravies and sauces, § 121.1(n)(24) | .8 | Emulsifier and emulsifier salt, § 121.1(o)(8); formulation aid, § 121.1(o)(14); stabilizer and thickener, § 121.1(o)(28). |
| Meat products, § 121.1(n)(29) | .2 | Flavoring agent and adjuvant, § 121.1(o)(12); stabilizer and thickener, § 121.1(o)(28). |
| All other food categories | 1.0 | Emulsifier and emulsifier salt, § 121.1(o)(8); stabilizer and thickener, § 121.1(o)(28). |

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. This regulation proposed above will constitute a determination that excluded uses would result in adul-

teration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21204 Filed 9–20–74;8:45 am]

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## [ 21 CFR Part 121 ]

## STERCULIA GUM (KARAYA GUM)

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review the safety of sterculia gum (karaya gum) has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the direct use of sterculia gum in food as GRAS with specific limitations.

Sterculia gum (karaya gum) is listed in § 121.101(d)(7), published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), as GRAS as a food stabilizer. Sterculia gum, also called karaya gum, gum karaya, gum kadaya, Indian tragacanth, and Indian gum, is the dried exudate of *Sterculia urens* Roxburgh, a large deciduous tree which grows in dry, elevated areas of North and Central India. Sterculia gum is also produced from various other species of *Sterculia* (S.), *S. campanulata, S. foetida, S. guttata, S. ornata, S. villosa,* all from India; *S. barteri, S. cinerea, S. setigera, S. tragacantha,* from Africa; and *S. acerifolia, S. diversifolia, S. plantanifalia, S. quadrifica, S. rupestris,* from Australia; *S. hypochroa, S. thorellii,* from Indochina; and *S. schaphigera* from China and Indochina. Some of these gums are not available in commercial amounts.

Almost all of the sterculia gum used in the United States is imported from India and is the dried gummy exudate from *S. urens*. Stericulia gum came into general use in the United States during World War I. Sterculia gum is a member of the galacturonorhamnan group of polysaccharides. Its components are L-rhamnose, D-galactose and D-galacturonic acid. The molecular weight of sterculia gum has been determined to average 9,500,000.

Sterculia gum has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproduction effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 73 abstracts on sterculia gum was reviewed and 17 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which sterculia gum was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to sterculia gum. The total poundage of sterculia gum used by the U.S. food industry in 1970 was 295,000 pounds, a 25 percent increase over that used in 1960.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

The $LD_{50}$ of sterculia gum in laboratory animals apparently has not been reported. However, the Stanford Research Institute determined that sterculia gum, given orally to groups of five male rats as a suspension in corn oil, in doses of 5 to 10 g per kg of body weight each, caused only transient depression and no deaths.

Sterculia gum is apparently not appreciably "disintegrated" in the alimentary tract when fed to dogs. Other undocumented reports state that the gum is not digested or absorbed by humans.

Hoelzel et al. fed sterculia gum to a group of nine male hooded rats, as a 10 to 25 percent component of the diet, for their entire life span. "Serious intestinal lesions" were found in three of five test subjects that were fed the gum for from 396 to 711 days. At the higher concentrations of the gum, marked depression of the growth rate occurred. In a subsequent report, the same workers fed sterculia gum to three male and three female Wistar rats, as a 10 to 25 percent component of the diet, for their entire life span. The rats exhibited a depressed food intake and growth rate; however, contrary to the previous findings, no cecal ulcerations were observed.

On a Wisconsin Alumni Research Foundation study, 10 weanling male Sprague-Dawley rats were fed a basal diet of 5 g per day plus 3 g per day of either sterculia gum or cornstarch. At the end of a week, the rats fed sterculia gum appeared to be bloated, with intestinal weights considerably larger than those of controls, and the animals showed a significant depression in growth rate. It was considered that sterculia gum had only 30 percent of the available caloric value of cornstarch.

Kratzer and co-workers have studied the nutritive value of sterculia gum in poultry feeds, in comparison with other sources of carbohydrate. When day-old Arbor-Acres chicks were given 2 percent sterculia gum in their diet for 21 days, some growth depression occurred; however, this was not considered to be statistically significant.

Ivy and Isaacs fed 5 g of unprocessed sterculia gum to three dogs daily for 30 consecutive days. The feces of the dogs showed increased bulk and moisture; but no irritating effect was observed.

There are few human studies available. Ivy and Isaacs studied the laxative effect of sterculia gum by feeding about 7 g daily to 89 human subjects over a 4-week period. They observed that because of its water-absorbing properties, the gum increased the bulk and moisture content of stools; they considered it to be a useful, harmless laxative.

Hoelzel et al. reported that they had personally ingested small amounts of powdered sterculia gum from time to time between 1919 and 1936 (presumably as a laxative), but regarded it as an unpalatable, highly fermentable, and irritating type of nonnutritive material.

Various reports on allergic reactions to sterculia gum have appeared in the literature, beginning in 1934. Figley in 1940 reported on 16 cases where the allergen had been contacted by ingestion and surface contact as well as by inhalation. The chief symptoms were perennial hay fever, asthma, atopic dermatitis, and gastrointestinal distress. Figley cautions against the indiscriminate use of sterculia gum as a laxative.

In 1943 and 1949, Gelfand published comprehensive reviews of the allergenic hazards of gums tragacanth, sterculia, and arabic. He estimated the possible per capita daily exposure of the three gums combined to be as much as 300 mg. He concluded that "widespread employment of these gums in food and other industries is a hazard for the sensitive individual from ingestion, inhalation, and surface contact of these gums." He recommended that the three gums be replaced by other less hazardous gums, natural or synthetic.

In connection with work on the fetotoxicity of gum tragacanth, Frohberg et al. made comparative studies of various other gums. Their procedures on sterculia were as follows:

(1) An 0.2 ml dose of 1 percent aqueous mucilage of the substance was injected intraperitioneally into pregnant mice, on the 11th through 15th days of gestation;

(2) An 0.2 ml dose of 1 percent aqueous mucilage was injected intraperitioneally into pregnant mice, on the 4th through 8th days of gestation;

(3) An 0.5 ml dose of both 1 percent and 10 percent aqueous suspensions was fed orally to pregnant mice, on the 11th through 15th days of gestation.

In all of these tests, sterculia gum had no influence on fetal development.

In recent teratology studies, pregnant animals were fed by oral intubation with suspensions of sterculia gum in corn oil at the following levels:

Mice, 170 mg per kg of body weight for 10 consecutive days, beginning on the sixth day of gestation;

Rats, 900 mg per kg for 10 consecutive days, beginning on the sixth day of gestation; and

Hamsters, 600 mg per kg for 5 consecutive days, beginning on the 6th day of gestation.

At these levels, there was no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in either soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls.

In a concurrent group of mice dosed at a level of 800 mg per kg for 10 consecutive days, a significant number of maternal deaths occurred (9 out of 28). The surviving dams appeared completely normal and bore normal fetuses with no effect on the rate of nidation or survival of live pups in utero. It was concluded that sterculia gum was not a teratogen to mice under the conditions of the test. No reasons were advanced to explain the maternal deaths.

Studies of mutagenic effects of sterculia gum have been reported. Sterculia gum did not produce any measurable mutagenic response or alteration in the recombination frequency for *Saccharomyces cerevisiae* in either the host-mediated assay or the associated in vitro tests. Sterculia gum exhibited no adverse effect on either metaphase chromosomes from rat bone marrow or anaphase chromosomes from in vitro cultures of human embryonic lung cells at any of the dose levels or time periods tested. No consistent responses occurred to suggest that sterculia gum is mutagenic to the rat as a result of the dominant lethal test procedure.

All of the available safety information on sterculia gum has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

While the literature on biological effects of sterculia gum is not extensive, it does permit several observations on the health aspects of the substance as a food ingredient.

Sterculia gum can cause allergic reaction in sensitive individuals. What proportion of the population is so affected is not known. A statistically significant survey, conducted by practicing allergists, would help to determine whether significant numbers of persons are being placed in a state of receptiveness to cross-reactive allergies based upon lifelong daily exposures to sterculia gum and the other two gums alleged to be allergenic, gum arabic and gum tragacanth.

Growth-depressing properties have been attributed to sterculia gum when fed in large amounts to laboratory animals. However, it is to be expected that the unpalatability of the gum in any diet to which it is added at a high level would ultimately affect consumption and hence the growth curve.

While no fetotoxic effects were reported in teratologic tests, the data indicated that sterculia gum fed at a level of 800 mg per kg of body weight for 10 days resulted in maternal deaths of one-third of the pregnant mice. The Select Committee has noted the same type of result in other reports by this institution, using high doses of a variety of vegetable gums, tested on a variety of laboratory animals. The doses of gum were generally much higher than those to which humans are likely to be exposed. Nevertheless, these tests should be repeated, in due course, to determine the cause of the maternal toxicity.

It is the conclusion of the Select Committee that there is no evidence in the available information on sterculia gum that demonstrates a hazard to the public when it is used at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based on his own evaluation of all available information on sterculia gum, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of sterculia gum requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists.

The Commissioner, in reaching this conclusion, recognizes that many substances occurring in nature may produce allergic type reactions in susceptible individuals. As an indication of the large variety of materials which have been implicated, there can be mentioned dusts of various kinds, pollens, feathers, seeds, dandruff, and foods. In general, sensitive individuals may react with a number of responses which may include, among others, angioedema, urticaria, bronchial asthma, pruritis, and vascular purpura. In some instances, these reactions may be life threatening. Within the past several decades there has accumulated a body of evidence which indicates that food ingredients may indeed produce sensitization in susceptible individuals, and these include gum tragacanth, gum arabic, and sterculia (karaya) gum. However, the data on these gums do not suggest an incidence of reactions sufficiently greater than those produced by other foods, to justify a conclusion at this time that they are not GRAS.

The Food and Drug Administration has been concerned about allergies, involving cosmetics and drugs, as well as food ingredients, and concurs with the suggestion of the Select Committee that a survey of the allergenic effects of tragacanth, arabic, and sterculia gums is needed. However, such a study should consider more than these three gums.

Funds of approximately $250,000 have been provided for this fiscal year to contract for information on how to predict human intolerances to food ingredients, and an analysis of human intolerance case histories. The results of these contracts should provide the agency with the necessary information to channel resources to minimize allergic reactions from food to the degree possible.

Meanwhile, the Commissioner is of the opinion that the particular gums used should be specifically named on the labels of all foods. Proposals to amend certain food standards to require the naming of the specific gum(s) used are in process and will be published in the future.

Copies of the Scientific Literature Review on sterculia gum, report for the teratogenic and mutagenic screening tests for the ingredient, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Sterculia gum (scientific literature review). | PB-221-205 | $3.00 |
| Sterculia gum (teratology tests). | PB-221-789 | 3.75 |
| Sterculia gum (teratology tests). | PB-223-818/AS | 2.75 |
| Sterculia gum (mutagenic test). | PB-221-823 | 4.85 |
| Gum sterculia (FASEB evaluation). | FDABF-GRAS-209. | 3.00 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect any present use of sterculia gum for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(d)(7) by revising the entry for "Sterculia gum (karaya gum)" to read as follows:

§ 121.101 Substances that are generally recognized as safe.

* * * * *

(d) * * *

| Product | Tolerance | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * | * * |
| (7) STABILIZERS | | |
| * * * | * * | * * |
| Sterculia gum (karaya gum) | | Affirmed as GRAS, § 121.104(g)(20). |
| * * * | * * | * * |
| * * * | * * | * * |

2. In § 121.104 by adding a new paragraph (g)(20) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(20) *Sterculia gum.* (i) Sterculia gum is the dried gummy exudate from the trunk of trees of various species of the genus *Sterculia.*

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Frozen dairy desserts and mixes, § 121.1(n)(20). | 0.3 | Stabilizer and thickener, § 121.1(o)(28). |
| Meat products, § 121.1(n)(29) | 0.1 | Do. |
| Milk products, § 121.1(n)(31) | 0.02 | Do. |
| Soft candy, § 121.1(n)(38) | 0.9 | Do. |
| All other food categories | 0.002 | Do. |

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21200 Filed 9–20–74;8:45 am]

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## [ 21 CFR Part 121 ]

## DILL, DILL OIL, INDIAN DILL AND INDIAN DILL OIL

### Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissoner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is issuing the final regulations resulting from those proposals. Pursuant to this review the safety of dill and Indian dill have been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the GRAS status of these ingredients.

Dill is listed in § 121.101(e) as GRAS for use in food as spices, natural seasonings, and flavorings pursuant to regulations published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404), and Indian dill is listed in § 121.1163(b) as safe for use in food as natural flavoring substances and natural substances used in conjunction with flavors pursuant to regulations published in the FEDERAL REGISTER of January 30, 1965 (30 FR 992). Dill (American and European) belongs to the species *Anethum graveolens* Linne. It is an annual herb native to the Orient and has been cultivated in the U.S. since about 1930. Commercially, dill is available in the U.S. as the dill herb, physically macerated dried fruit or seeds, and dill oil obtained by steam distillation of freshly cut stalks, leaves, and/or seeds. Indian dill, cultivated in India and Japan, has been classified as *Anethum sowa* D.C. and is also referred to as *Anethum sowa* Roxb. It is also an annual herb native to Asia, cultivated in India and Japan and available in the United States as the oil obtained by steam distillation of physically macerated mature fruit and/or seeds.

The oils distilled from the seed of the two plant types differ in regard to their physiochemical properties and chemical composition. Some principal common constituents of *Anethum graveolens* and *Anethum sowa* seed oil are carvone, dihydrocarvone, limonene, pinene, and dipentene. Dillapiole and probably its isomer apiole are present in significant but variable amounts in the *A. sowa oil* but occur only in trace amounts, if at all, in the oil of *A. graveolens.*

Dill and Indian dill have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 61 abstracts on dill and Indian dill was reviewed and 15 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which dill, dill oil, Indian dill, and Indian dill oil were used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to dill and Indian dill. A total of 88,356 pounds of dill, 106,300 pounds of dill oil, and 316,972 pounds of Indian dill seed were used in food in the United States in 1970. Most of the domestic dill is presumably processed to herb oil. None of the data available indicate the extent to which total poundages used have changed in recent years. However, import statistics for 1968 through 1972 indicate the total annual imports of dill have tended to increase slightly during this period. Use data for 1960 are not reported.

The Select Committee on GRAS Substances evaluated both dill and Indian dill literature information. Biological studies referred to in the Select Committee report presented limited toxicity data on both types of dill as well as their principal common component, carvone. The FAO/WHO Expert Committee on Food Additives has established a conditionally acceptable human daily intake of up to 1.25 mg/kg body weight of the sum of *l*- and *d*-carvone. The Select Committee also recognized the importance of evaluating dillapiole, a significant component of Indian dill (*Anethum sowa*). No toxic effects have been reported for dill (*Anethum graveolens*) oil containing no dillapiole or of *Anethum sowa* oil containing dillapiole, or effects on blood pressure or heart rate of mice.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee:

There is a paucity of information on the biological effects of dill or the essential oils derived from the plant or seed.

Dill oil derived from *A. graveolens*, as well as the essential oils from a number of other spices, exhibits an antispasmotic and myotropic effect on rabbit and guinea pig intestinal strips in vitro. Dill has been used historically as an aromatic carminative. It is reported to induce rebuilding of damaged tissues in hemorrhoidal cases.

Some toxicity data are available on the principal constituents of dill oil. The oral $LD_{50}$ of carvone in the rat is reported as 1,640 mg per kg. The following oral $LD_{50}$'s in mg

per kg also are reported: Eugenol, 500 in the rat; myristicin, 570 in the cat; anethole, 2,090 in the rat; anisaldehyde, 1,510 in rat; thymol, 1,000 in the mouse. Oral $LD_{50}$'s for eugenol ranging from 1,930 to 2,680 mg per kg in the fasted rat have also been reported.

Pure carvone was found to have no adverse effect on 5 male and 5 female rats fed 2,500 ppm in the diet (approximately 250 mg per kg per day) for 1 year; but at 10,000 ppm for 16 weeks, growth retardation and testicular atrophy were observed. Eugenol, thymol, or anisaldehyde fed at a level of 10,000 ppm in the diet for 15 to 19 weeks had no effect. Anethole fed at 2,500 ppm for a year produced no effect; but at 10,000 ppm for 15 weeks, it produced slight microscopic hydropic changes of hepatic cells in males.

As noted previously, dillapiole and probably its isomer apiole are present in significant but variable amounts in the oil of Indian dill (*A. sowa*) but occur only in trace amounts, if at all, in the oil from *A. graveolens*. Since about half of the dill consumed in U.S. foods is estimated to be of Indian origin, the available biological information on dillapiole and its relatives is important in consideration of dill.

Apiole, an isomer of dillapiole from parsley, is reported to have been used as an abortifacient and as such produced polyneuritis in a number of cases in Holland, but this effect was shown to be due to a contaminant, tri-o-cresol phosphate. An apiole of 96-percent purity was lethal to dogs when fed at a level of 0.5 to 0.75 g per kg. Rabbits fed doses of 2.25 to 20 g of apiole for 6 days to 2 months developed lesions of the liver and kidneys. An oral $LD_{50}$ of 1 to 1.5 g per kg is reported for dillapiole, in mice. The same investigators observed no toxic effect of *A. graveolens* oil containing no dillapiole or *A. sowa* oil containing dillapiole, or effects on blood pressure or heart rate. After ingestion of 1.6 g of apiole for 3 days, two individuals excreted the compound in the urine on the first day and one on the second and third days. There was no detectable apiole in the blood.

No reports are available to the Select Committee that bear on the possible carcinogenic, mutagenic, reproductive, or teratogenic effects of feeding dill or oil of dill, or their major constituents.

All of the available safety information has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB).

It is the opinion of the Select Committee that:

* * * daily consumption of dill probably does not exceed the equivalent of 1 mg of dill oil per capita, or about 0.017 mg per kg per day in adults and about twice that level in children. The oil's most plentiful constituent, carvone, present to the extent of about 60 percent in the oil, elicits toxic responses only at the levels much greater than those that might be present in the diet. Other constituents, present in some oils in lesser to trace amounts, such as apiole, dillapiole, and myristicin have not been shown to produce toxic effects on feeding at levels many times those that could exist in man's diet.

It is the conclusion of the Select Committee that there is no evidence in the available information on dill or Indian dill that demonstrates a hazard to the public when used at current levels and in the manner now practiced or under conditions that might reasonably be expected in the future. Based upon his own evaluation of all available information on dill and Indian dill, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of dill *Anethum graveolens* Linne and Indian dill *Anethum sowa* Roxburgh is justified.

Copies of the Scientific Literature Review on dill and Indian dill and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Dill (Scientific literature review) | PB-221-223 | $3.00 |
| Dill (FASEB evaluation) | FDABF-GRAS-215 | 3.00 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of dill, or Indian dill, for pet food or animal feed.

Therefore pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(e) (1) and (2) by revising the entries for "Dill" and adding a new entry "Dill, Indian" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(e) * * *

(1) SPICES AND OTHER NATURAL SEASONINGS AND FLAVORINGS (LEAVES, ROOTS, BARKS, BERRIES, ETC.)

| *Common name* | *Botanical name of plant source* |
|---|---|
| * * * * * * | |
| Dill (affirmed as GRAS, § 121.104(g)(13)) | *Anethum graveolens* Linne. |
| Dill, Indian (affirmed as GRAS, § 121.104(g)(15)). | *Anethum sowa* D.C. |
| * * * * * * | |

(2) ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES)

| *Common name* | *Botanical name of plant source* |
|---|---|
| * * * * * * | |
| Dill (affirmed as GRAS, § 121.104(g)(14)) | *Anethum graveolens* Linne. |
| Dill, Indian (affirmed as GRAS, § 121.104(g)(16)). | *Anethum sowa* D.C. |
| * * * * * * | |

2. In § 121.104 by adding new paragraph (g) (13) through (16) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(13) *Dill.* (i) Dill (American or European) is the herb and seeds from *Anethum graveolens* Linne.

(ii) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice in the use of dill results in maximum levels of 3,600 parts per million (ppm) in baked goods and baking mixes as defined in § 121.1(n)(1), 5,959 ppm in cheeses as defined in § 121.1(n)(5), 4,000 ppm in gravies and sauces as defined in § 121.1(n)(24), and 1,600 ppm in all other foods.

(14) *Dill oil.* (i) Dill oil (American or European) is the essential oil obtained by steam distillation of freshly cut stalks, leaves, and/or seeds of the herb, *Anethum graveolens* Linne native to the Orient.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in maximum levels of 400 parts per million (ppm) in cheeses as defined in § 121.1(n)(5), 1,06[illegible] ppm in condiments and relishes as defined in § 121.1(n)(8), 750 ppm in snack foods as defined in § 121.1(n)(37), and 200 ppm in all other foods.

(15) *Dill, Indian.* (i) Dill, Indian is the seed from *Anethum sowa* D.C.

(ii) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufac-

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

turing practice results in maximum levels of 8,300 parts per million (ppm) in baked goods and baking mixes as defined in § 121.1(n)(1), 20,000 ppm in condiments and relishes as defined in § 121.1 (n)(8), and 1,000 ppm in all other foods.

(16) *Dill oil, Indian.* (i) Dill oil, Indian is the essential oil obtained by steam distillation of physically macerated mature fruit and/or seeds of the herb, *Anethum sowa* D.C.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o)(12).

(iv) The ingredient is used in foods at levels not to exceed good manufacturing practices. Current good manufacturing practice results in maximum levels of 400 parts per million (ppm) in cheeses as defined in § 121.1(n)(5), 1,064 ppm in condiments and relishes as defined in § 121.1 (n)(8), 750 ppm in snack foods as defined in § 121.1(n)(37), and 200 ppm in all other foods.

§ 121.1163 [Amended]

3. In § 121.1163 *Natural flavoring substances and natural substances used in conjunction with flavors* by deleting the entry for "Dill, Indian" from the list of substances in paragraph (b).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Federal Register July 10, 1973.

[FR Doc.74-21195 Filed 9-20-74;8:45 am]

## Food and Drug Administration

## [ 21 CFR Part 121 ]

## GARLIC AND OIL OF GARLIC

### Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035-20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing the final regulations resulting from those proposals. Pursuant to this review, the safety of garlic and oil of garlic has been evaluated. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the GRAS status of these two ingredients.

Garlic is obtained from a genus of the lily family, *Allium sativum*. The underground bulb of this genus consists of a stem core surrounded by storage leaves rich in sugar and pungent allyl derivatives. Garlic oil is obtained from macerated garlic bulbs.

Garlic and garlic oil were listed in §§ 121.101(e) (1) and (2) for use in food as a natural spice seasoning and an essential oil flavoring, respectively, in the FEDERAL REGISTER of January 19, 1960 (25 FR 404). The major chemical constituents of whole garlic include allylsulfinyl alanine, volatile and fatty acids, mucilage, and albumin. The principal constituents of garlic oil include allylpropyl disulfide and diallyl disulfide and diallyl trisulfide. Garlic has been used in food dating back to 4500 B.C.

Garlic and garlic oil have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 316 abstracts on garlic and garlic oil was reviewed and 47 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which these substances were used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to garlic and garlic oil. Although no information is available to indicate whether the consumption of garlic and garlic oil has changed significantly in recent years, average annual consumption is estimated at 73 million pounds.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Daily oral doses of a partially purified aqueous alcohol extract of garlic bulbs, equivalent of 40 g of garlic per kg had no effect on guinea pigs except for a slight loss of weight. In the case of rats, continuous daily ingestion of the same extract, equivalent to about 138 g of garlic per kg also resulted only in a slight loss of weight. The intravenous $LD_{50}$ of the extract for the rat and mouse was reported as the equivalent of 500 g of garlic per kg. It should be noted that the relationship between the composition of the alcohol extract used in the foregoing studies and garlic oil is not directly ascertainable from the data available. However, if one assumes that this investigator's alcohol extract contained all of the garlic oil present in the garlic bulbs extracted, a rough calculation can be made based on a content of 0.2 percent garlic oil in fresh garlic. On this basis the 40 g of garlic per kg indicated above would be equivalent of 80 mg of garlic oil per kg.

The subcutaneous $LD_{50}$ of allicin, one of the major constituents of oil of garlic, is reported to be 50 mg per kg in mice. The intraperitoneal $LD_{50}$, 20 mg per kg. According to Cavallito and collaborators, extraction of fresh garlic yields 0.3 to 0.5 percent allicin. On the basis of 0.5 percent, the figures given above would be equivalent to about 10 g and 4 g of fresh garlic per kg, respectively.

The intraperitoneal $LD_{50}$ for mice of diallyl sulfide, one of the reported constituents of oil of garlic, is 500 mg per kg. The "qualifying toxic dose" for man by inhalation for another reported constituent of oil of garlic, allylpropyl disulfide, is a concentration of 3.4 ppm in air.

Six of ten guinea pigs on a 5 to 20 percent fresh garlic diet died within 28 days and all five rats died within 11 days on a diet of 20 to 30 percent fresh garlic. However, the addition of 3 percent garlic to the diet of young leghorn chicks, resulted in increased rate of growth.

There is no reported information on the absorption, metabolism or excretion of garlic, garlic oil, or their major constituents.

In an investigation of the effects of garlic powder in controlling infectious chronic lung congestion, it was noted that Wistar rats on a 2.5 percent dehydrated garlic diet, equivalent to 10 percent fresh garlic, showed a slight lowering of the hemoglobin concentration and red cell count. On a diet of 5 percent dehydrated garlic, equivalent to 20 percent fresh garlic, the second generation rats were sterile.

A decrease in blood pressure was observed both in the first five minutes and in the following hour when rabbits were given 0.015 mg per kg of "garlic juice." The pressure gradually returned to its original level after two hours. No side effects were noted.

When garlic juice, obtained by pressing, was administered orally to guinea pigs at a level of 1 cc per kg body weight daily, the blood calcium level increased to a peak between 14 and 28 days, but became normal again after 2 months of the same diet. A comparable reaction has also been reported in dogs.

No reports have been found that suggest garlic or garlic oil to be carcinogenic. On the other hand, antitumor potentialities have been claimed. For example, in one series of investigations, the feeding of fresh garlic was reported to completely prevent the development of mammary tumors in female mice, and the effect was attributed to the allicin component. It has also been reported

that a 2 mg injection of a 1 percent ethyl alcohol extract of whole garlic altered the estrous cycle of ovariectomized rats. Crude garlic extracts, injected intraperitoneally, exerted an antimitotic effect similar to that of colchicine on the cells of ascites sarcoma in albino rats.

Investigations of the mutagenicity and teratogenicity of garlic or garlic oil have not been reported.

In addition to the foregoing limited toxicological data, two biological observations have been reported during the course of investigations of the medicinal properties of garlic and garlic oil. Ingestion by man of 10, 100 or 200 mg of garlic oil per day did not affect the blood erythrocyte count. Inhalation of garlic juice diluted in physiological salt solution or with 0.25 percent of a 1:3 procaine solution, by 34 patients with chronic pneumonia complicated by candidiasis of the lungs brought about an improvement in 26 of the patients. There was a decrease or disappearance of the candida fungus from the sputum of 16 patients.

Several reports have been made on allergic reactions to garlic, including asthmatic reaction to inhalation of garlic powder and contact dermatitis. Food allergenic reactions with symptoms similar to Meniere's disease have been reported for garlic and resemble those earlier found for certain foods, among them various fruits, tomatoes, hazelnuts, potatoes, pork, lobster, eggs and other foods. These studies of allergic reactions to foods containing garlic were case reports; definitive investigations of allergenicity of garlic and its constituents are lacking.

All of the available safety information on garlic and garlic oil has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

The long history of the use of garlic in food and acute, chronic and inhalation studies, although limited, reveal no credible adverse biological effects even at concentrations which are of orders of magnitude greater than the levels reported to be currently consumed in man's daily diet.

It is the conclusion of the Select Committee that there is no evidence in the available information on garlic or oil of garlic that demonstrates a hazard to the public when they are used at current levels and in the manner now practiced or under conditions that might reasonably be expected in the future. Based upon his own evaluation of all available information on garlic and oil of garlic, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of these ingredients is justified.

Copies of the Scientific Literature Review on garlic and garlic oil and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Oil of Garlic (Scientific Literature Review). | PB–221–219 | $3.75 |
| Garlic and Garlic Oil (FASEB Evaluation). | PB–223–838/AS | 2.75 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $.95 each for all others.

This proposed action does not affect the present use of garlic and garlic oil for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(e) (1) and (2) by adding a new column headed "Limitations, restrictions, or explanations" and revising the entries for "Garlic" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(e) * * *

| Common name | Botanical name | Limitations, restrictions, or explanations |
|---|---|---|
| (1) SPICES AND OTHER NATURAL SEASONINGS AND FLAVORINGS (LEAVES, ROOTS, BARKS, BERRIES, ETC.) | | |
| * * * * * * * | | |
| Garlic | *Allium sativum* Linne | Affirmed as GRAS, § 121.104(g)(8). |
| * * * * * * * | | |
| (2) ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES) | | |
| * * * * * * * | | |
| Garlic | *Allium sativum* Linne | Affirmed as GRAS, § 121.104(g)(9). |
| * * * * * * * | | |

2. In § 121.104 by adding paragraph (g) (8) and (9) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(8) *Garlic.* (i) Garlic is the bulb or cloves obtained from *Allium sativum,* a genus of the lily famliy.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o) (12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 1,300 parts per million (ppm) for condiments and relishes as defined in § 121.1 (n) (8), gravies and sauces as defined in § 121.1(n) (24), meat products as defined in § 121.1(n) (29), and processed vegetables and vegetable juices as defined in § 121.1(n) (36); and 800 ppm for baked goods and baking mixes as defined in § 121.1(n) (1) and in soups and soup mixes as defined in § 121.1(n) (40).

(9) *Garlic oil.* (i) Garlic oil is the natural substance obtained from the maceration of garlic bulbs.

(ii) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used as a flavoring agent and adjuvant as defined in § 121.1(o) (12).

(iv) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 15 parts per million (ppm) for condiments and relishes as defined in § 121.1(n) (8), fats and oils as defined in § 121.1(n) (12), gravies and sauces as defined in § 121.1 (n) (24), and meat products as defined in § 121.1(n) (29); and 10 ppm for baked goods and baking mixes as defined in § 121.1(n) (1), beverages and beverage bases, nonalcoholic, as defined in § 121.1 (n) (3), frozen dairy desserts and mixes as defined in § 121.1(n) (20), and gelatins, puddings, and fillings as defined in § 121.1(n) (22).

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulations proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74–21194 Filed 9–20–74;8:45 am]

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## [ 21 CFR Part 121 ]

## OIL OF RUE

### Proposed Affirmation of GRAS Status With Specific Limitations as Direct Human Food Ingredient

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Foods and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing the final regulations resulting from those proposals. Pursuant to this review, the safety of oil of rue has been evaluated. In accordance with the provisions of §§ 121.40, the Commissioner proposes to affirm the direct use of oil of rue in food as GRAS with specific limitations.

Rue (oil of rue) is listed in § 121.101 (e)(1) and (2) as GRAS for use in food as a natural spice seasoning and an essential oil flavoring, respectively, pursuant to a regulation published in the FEDERAL REGISTER of January 19, 1960 (25 FR 404).

Oil of rue is the volatile oil obtained by steam distillation from the fresh blossoming plants of several species of *Ruta*. Spain is the most important commercial source. The Spanish oil is distilled primarily from *Ruta montana* Linne. Ninety percent or more of the active components of oil of rue, the yellow to yellow-amber oil, contains primarily methyl nonyl ketone and methyl heptyl ketone. It also contains cineole, limonene, methyl salicylate, pinene, and other compounds less well identified.

Use of the oil in the United States as a flavoring agent has been known for many years, but the year of first use is unknown. Oil of rue is used as a flavoring agent in amounts ranging from 8.6 parts per million (ppm) to 0.5 ppm in the following categories of foods arranged in decreasing order of content: Baked goods, soft candy, frozen dairy desserts and mixes, nonalcoholic beverages, alcoholic beverages, gelatins, condiments, and hard candy.

Oil of rue has been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 31 abstracts on oil of rue was reviewed and 11 particularly pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which oil of rue was used and at what levels. Available surveys of consumer consumption were obtained and combined with the production information to obtain an estimate of the consumer exposure to oil of rue. In 1970 it was reported that 3 pounds of rue derived principally from *Ruta montana* would not contain more than 0.03 pound of the oil, and 90 pounds of oil of rue were used in foods in the United States.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

Data on the biological effects of oil of rue administered orally to either animals or man are extremely limited.

The oral $LD_{50}$ for mice of samples of oil of rue prepared by steam distillation of plants collected by an investigator has been reported to be 2,070 mg per kg. The $LD_{50}$ of methyl-*n*-nonyl ketone was reported to be 3,880 mg per kg. No studies have been found on the absorption, disposition, biotransformation, and excretion of oil of rue, nor are there any data on the possible teratogenic, mutagenic, or carcinogenic properties of the oil when administered orally.

Guinea pigs and rabbits have been administered relatively large doses of oil of rue by oral intubation. The doses varied from "250 to 300 drops for guinea pigs weighing 250 to 300 g and from 500 to 600 drops for rabbits weighing 2,000 to 2,500 g." Of 10 animals, three died within 7 to 9 days, four were alive after 20 days and were sacrificed, and three (all pregnant) did not seem to "suffer further from their intoxication." The animals, variously, showed evidence of dyspnea, diarrhea, body weight loss, fatty livers, and nephritis, with more pronounced pathological changes reported to occur in fetal than in maternal tissues. The investigators observed that "the experimental and histological results do not match the quantities ingested."

When two pregnant guinea pigs were fed a relatively large dose but unknown quantity, i.e., 12 drops of oil of rue, both animals aborted and direct analysis of fetal tissues indicated that oil of rue penetrated the placenta and was toxic to fetal tissues. Infusions of the rue plant were also reported to cause sharp contractions of the isolated guinea pig uterus.

The oil rapidly penetrates the abdominal skin of male mice. Direct, application of the oil to the skin persistently or rubbing leaves of the plant on the skin can produce redness, burning, and vesication. Large oral doses are reported to cause violent gastric pain, confusion, convulsive twitching, and in pregnant women, abortion. There are two reports in the literature indicating that oil of rue, together with other plant products, can be used to produce abortion; neither report provides supportive data.

In most of the work referred to above it is not possible to quantitate the doses used, but it would appear that the toxic manifestations reported were elicited by amounts of oil of rue that are orders of magnitude greater than those now consumed in food in the U.S.

All of the available safety information on oil of rue has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

The data available indicate that the quantity of oil rue in the diet is minute, probably as little as one microgram per person per day. Adverse effects due to oil of rue from long term exposure at such a low level in the human diet are not evident in the meager data now available.

It is to be noted, however, that oil of rue is a complex of organic substances only a few of which have been identified. Chemical identification of all the substances in the oil could be accomplished with present analytical techniques and would provide positive assurance that oil of rue does not contain components known to be toxic. Moreover, the evidence that oil of rue is absorbed, can pass the placenta, and is toxic to fetal tissues at relative high doses suggests the desirability, in due course, of conducting teratological and fetal toxicity tests at oral dosages equivalent to the present very low levels of consumption. The Select Committee recognizes that there is little incentive to develop this kind of information for a substance that is used in the United States to the extent of less than 100 pounds per year.

It is the conclusion of the Select Committee that there is no evidence in the available information on oil of rue that demonstrates a hazard to the public when it is used at current levels and in the manner now practiced, but not necessarily under different conditions of use. It is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard. Based upon his own evaluation of all available information on oil of rue, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of oil of rue requires regulation of this GRAS ingredient with specific limitations to preserve present conditions of use. The levels of use adopted in this proposal, for various categories of food, are the maximum levels reported to the National Academy of Sciences/National Research Council in their survey of food manufacturers. Use of the ingredient in any manner not permitted by the proposed regulation results in its becoming a food additive for which no regulation currently exists.

Copies of the Scientific Literature Review on oil of rue and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service

(NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Oil of rue (scientific literature review). | PB-221-212 | $3.00 |
| Oil of rue (FASEB evaluation) | PB-223-839/AS | 2.75 |

The above titles may also be purchased in microfiche form. Microfiche documents prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of oil of rue for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055–1056, 72 Stat. 1784–1788, as amended; 21 U.S.C. 321(s), 348, 371(a)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(e)(2) by revising the entry for "Rue" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(e) * * *

| Common name | Botanical name | Limitations, restrictions, or explanations |
|---|---|---|
| * * * | * * | * * |
| (2) ESSENTIAL OILS, OLEORESINS (SOLVENT-FREE), AND NATURAL EXTRACTIVES (INCLUDING DISTILLATES) | | |
| * * * | * * | * * |
| Rue | *Ruta montana* Linne, *Ruta graveolens* Linne, and *Ruta bracteosa* Linne. | Affirmed as GRAS, § 121.104(g)(21). |
| * * * | * * | * * |

2. In § 121.104 by adding paragraph (g)(21) to read as follows:

**§ 121.104 Substances added directly to human food affirmed as generally recognized as safe (GRAS).**

* * * * *

(g) * * *

(21) *Oil of rue.* (i) Oil of rue is the natural substance obtained from fresh blossoming plants of species of *Ruta*—*Ruta montana* Linne, *Ruta graveolens* Linne, *Ruta bracteosa* Linne.

(ii) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[1]

(iii) The ingredient is used in food under the following conditions:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

MAXIMUM USAGE LEVELS PERMITTED

| Food categories | Percent | Function |
|---|---|---|
| Baked goods and baking mixes, § 121.1(n)(1) | .001 | Flavoring agent and adjuvant, § 121.1(o)(12). |
| Frozen dairy desserts and mixes, § 121.1(n)(20). | .001 | Flavoring agent and adjuvant, § 121.1(o)(12). |
| Soft candies, § 121.1(n)(38) | .001 | Flavoring agent and adjuvant, § 121.1(o)(12). |
| All other food categories | .0004 | Flavoring agent and adjuvant, § 121.1(o)(12). |

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register July 10, 1973.

[FR Doc.74-21198 Filed 9-20-74;8:45 am]

## [21 CFR Part 121]

## PULPS

### Proposed Affirmation of GRAS Status as Indirect Human Food Ingredients

The Food and Drug Administration is conducting a comprehensive study of direct human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20035–20057), implementing this review. Elsewhere in this issue of the FEDERAL REGISTER the Commissioner is publishing the final regulations resulting from those proposals. Included as a part of this review of direct food ingredients are a limited number of substances migrating to food from paper and paperboard products used in food packaging. In accordance with the provisions of § 121.40, the Commissioner proposes to affirm the GRAS status of pulps for use in food packaging materials.

Pulp from wood, straw, bagasse, or other natural sources is listed in § 121.101(h), published in the FEDERAL REGISTER of June 17, 1961 (26 FR 5421), as GRAS when migrating to food from paper and paperboard products used in food packaging. Pulp from sugarcane is called bagasse. Other pulps are obtained from the plants from which their names are derived. Bagasse consists of the crushed remnants of sugarcane stalks from which the sugar-containing juices have been extracted. Physically, bagasse is composed of two distinct cellular constituents: the thick-walled, relatively long, fibrous fraction derived primarily from the rind and, to a lesser degree, from the fibrovascular bundles dispersed throughout the interior of the stalk; and a pithy fraction derived from the delicate, thin-walled cells of the ground tissue or parenchyma of the stalk. The usual composition of bagasse from the sugar mill is about 45 percent insoluble solids or crude fiber, 6 percent soluble solids, and the remainder moisture. Beet pulp is made up of about 76 percent carbohydrates essentially in the following proportions: 6 percent galactan; 20 percent araban; 25 percent cellulose; and 25 percent pectin. Protein, ash, acetyl, and other constituents make up the remainder. A typical wheat straw pulp composition is 44 percent cellulose; 20 percent pentosan; 7 percent furfuraldehyde; and 6 percent other carbohydrates. Protein, ash, lignin, and other constituents make up the remainder.

There are no animal, synthetic, or natural inorganic sources of pulp. The term "pulp" refers to materials in paper or paperboard, derived from wood, straw, bagasse, or other natural sources. Accordingly, this proposal concerns paper and paperboard as made by conventional paper making processes. Further, it concerns only such part of the constituents of paper and paperboard as may migrate from packages to the food contained therein.

Pulps have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) the chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or muta-

genicity, (7) dose response, (8) reproduction effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 50 abstracts on pulps was reviewed and 10 pertinent reports from the literature survey have been summarized in a Scientific Literature Review.

No data have been found that would provide an adequate basis for estimating the extent to which the constituents of paper and paperboard migrate to food from packages and containers.

Unlined paper and paperboard packages are not used for foods of high moisture content, making it unnecessary to consider the leaching into food of the water soluble, nonfibrous materials from such packages. This proposal considers only the amount of cellulose pulp that might enter dry packaged food as a result of abrasion of the container during marketing, storage, and use. The amount of cellulose added to processed foods is estimated at 152 milligrams per kilogram body weight. It is a logical assumption that consumer exposure to pulp, primarily cellulose, from container abrasion is of a much lower order. It is also estimated to be lower than the cellulose regularly consumed by man as a constituent of vegetable foods eaten.

The Scientific Literature Review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (SCOGS):

> The Select Committee is not aware of any toxicological tests on pulp per se. However, the available information on cellulose, the principal constituent of pulp, has been evaluated and found to be without hazard as a food ingredient at levels considerably higher than could conceivably be present in food as a result of the migration of pulp from food packages and containers. Experience also provides confirmation of the innocuousness of pulp as a food ingredient. As a natural ingredient of plant materials, pulp is eaten regularly in large amounts by livestock and other herbivorous animals. Pulp is present in most of the basic diets of laboratory test animals used for metabolic and toxicologic studies. Pulp is consumed by man as common constituents of the vegetable matter of his diet. No evidence of animcal toxicity due to pulp has been reported.

All of the available safety information on pulps has been carefully evaluated by qualified scientists of the Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). It is the opinion of the Select Committee that:

> Since paper and paperboard packaging materials are not food but might be considered possible contaminants in food, it is not surprising that the Food Chemical Codex does not include specifications for such materials. However, inasmuch as pulp from paper and paperboard can conceivably migrate to foods and thus become a food ingredient, specifications for paper used in connection with food, including limits with respect to source, abradability, and content of heavy metals and other possible toxicants, could be a useful, additional safeguard of food wholesomeness. In the meantime it is assumed that good manufacturing practice and quality control provide for adequate safeguards in the use of "food quality" cellulose and other pulp ingredients in the packaging materials used for food.

It is the conclusion of the Select Committee that there is no evidence in the available information on pulps that demonstrates a hazard to the public when they are used in food packaging materials as now practiced or as they might be expected to be used for such purposes in the future. Based upon his own evaluation of all available information on pulps, the Commission concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of pulps is justified.

Copies of the Scientific Literature Review on pulps and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151, as follows:

| Title | Order number | Cost |
|---|---|---|
| Pulps (scientific literature review). | PB–223–848/AS.. | $2.75 |
| Pulps (FASEB evaluation)..... | FDABF–GRAS–222. | 3.00 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

This proposed action does not affect the present use of pulps for pet food or animal feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended; 21 U.S.C. 321(s), 348, 371(a)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended as follows:

1. In § 121.101(h) by revising the entry for "Pulps from wood, straw, bagasse, or other natural sources" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(h) * * *

Pulps from wood, straw, bagasse, or other natural sources. Affirmed as GRAS, § 121.105(f)(3).

* * * * *

2. By adding to § 121.105 a new paragraph (f)(3) to read as follows:

**§ 121.105 Substances in food contact surfaces affirmed as generally recognized as safe (GRAS).**

* * * * *

(f) * * *

(3) *Pulp.* (i) Pulp is the soft, spongy pith inside the stem of a plant such as wood, straw, sugarcane, or other natural plant sources.

(ii) The ingredient is used or intended for use as a constituent of food packaging containers.

(iii) The ingredient is used in paper and paperboard made by conventional paper-making processes at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Subpart E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 23, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74–21205 Filed 9–20–74;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### GRAS OR PRIOR-SANCTIONED DIRECT HUMAN FOOD INGREDIENTS

#### Availability of Information

In notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20044) and April 17, 1974 (39 FR 13796), the Commissioner of Food and Drugs announced the availability of data and information compiled during the safety review of generally recognized as safe (GRAS) and prior-sanctioned food ingredients. The availability of this data and information was announced by the Commissioner to provide public opportunity to present additional data, information, and views on such substances directly to the Select Committee on GRAS Substances (SCOGS), and to provide maximum public opportunity to present comments on proposed Food and Drug Administration actions for the ingredients as they are published in the FEDERAL REGISTER.

This notice announces the public availability of new data and information obtained by the Food and Drug Administration in conducting its review of GRAS and prior-sanctioned food ingredients. In addition to announcing the availability of recently prepared Scientific Literature Reviews on numerous ingredients now being evaluated by the Select Committee on GRAS Substances, this notice announces the availability of seven reports of the Select Committee on the evaluation of health aspects of the various food ingredients. These evaluations are directly related to proposed actions by the Food and Drug Administration on these ingredients, published elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner recognizes that data and information on GRAS and prior-sanctioned food ingredients is of broad interest to the public. Accordingly, this information is available for public disclosure in the following ways.

1. Copies of each Scientific Literature Review have been placed in the Library of Congress under the title, "Scientific Literature Reviews on GRAS Food Ingredients," L.C. Card No. 73-600105.

2. The following Scientific Literature Reviews and Reports of the Select Committee on GRAS Substances to the Commissioner of Food and Drugs are now available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22151.

SCIENTIFIC LITERATURE REVIEWS

| Ingredient(s) | Ordering number | Cost |
|---|---|---|
| Glutamates | PB-229-856/AS | $11.00 |
| Glycerophosphates | PB-228-543/AS | 3.75 |
| Hypophosphites | PB-228-544/AS | 3.00 |
| P-hydroxybenzyl-isothiocyanate | PB-228-545/AS | 3.00 |
| Vegetable oils, and oleic and linoleic acids. | PB-228-546/AS | 5.75 |
| Gum guaiac | PB-228-547/AS | 3.00 |
| Sucrose | PB-228-549/AS | 5.75 |
| Magnesium salts | PB-228-550/AS | 5.50 |
| Hydrosulfites | PB-228-551/AS | 3.00 |
| Sulfamic acid | PB-228-552/AS | 3.25 |
| Manganese salts | PB-228-553/AS | 5.00 |
| Silicates | PB-228-554/AS | 4.75 |
| Fish oils | PB-228-555/AS | 4.00 |
| Tall oil | PB-228-556/AS | 4.00 |
| Hydrogenated soy bean oil | PB-228-557/AS | 4.00 |
| Formic acid | PB-228-558/AS | 4.00 |
| Gluconate salts | PB-228-537/AS | 3.25 |
| Propionates and thiodipropionates. | PB-228-538/AS | 4.00 |
| Dextrins | PB-228-539/AS | 3.75 |
| Rennet (rennin) | PB-228-541/AS | 3.25 |
| Adipic acid | PB-230-305/AS | 3.25 |
| Pectin | PB-230-306/AS | 3.75 |

REPORTS OF THE SELECT COMMITTEE

| Report ingredient(s) | Ordering Number | Cost |
|---|---|---|
| Gum tragacanth | PB-223-835/AS | $2.75 |
| Guar gum | PB-223-836/AS | 2.75 |
| Benzoic acid and sodium benzoate. | PB-223-837/AS | 2.75 |
| Garlic and garlic oil | PB-223-838/AS | 2.75 |
| Oil of rue | PB-223-839/AS | 2.75 |
| Propyl gallate | PB-223-840/AS | 2.75 |
| Gum ghatti | PB-223-841/AS | 2.75 |
| Pulps | FDABF-GRAS-222. | 3.00 |
| Dill | FDABF-GRAS-215. | 3.00 |
| Gum arabic (acacia) | FDABF-GRAS-207. | 3.00 |
| Gum sterculia (karaya) | FDABF-GRAS-209. | 3.00 |

The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF or AS suffix, and $0.95 each for all others.

3. A single copy of all of the data and information given above is available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21206 Filed 9-20-74;8:45 am]

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### SAFETY OF CERTAIN FOOD INGREDIENTS

#### Opportunity for Public Hearing

In the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for the oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), with respect to the safety of ingredients used in food on a determination that they are generally recognized as safe (GRAS) or subject to a prior sanction.

The Commissioner hereby gives notice that the Select Committee is prepared to conduct a public hearing with respect to the following four categories of food ingredients:

Stannous chloride
Ammonium ion
Iodine and iodine salts
Aconitic acid

This public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person to present scientific data, information, and views in addition to those previously submitted in writing pursuant to the notices previously published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051 and 20053), and April 17, 1974 (39 FR 13796 and 13798), relevant to the safety of these substances.

The Select Committee has reviewed all of the available data and information on the above categories of food ingredients and has reached one of the four following tentative conclusions on their status:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. While no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted.

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced.

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the four types of conclusions listed above), and the available information on which the Select Committee reached its conclusion. Footnoted items in the first column will not be considered at this hearing.

| Substance | Select committee tentative conclusion | Scientific literature review | | Animal study report | | Other information |
|---|---|---|---|---|---|---|
| | | Order number | Cost | Order number | Cost | |
| *Stannous chloride* | 1 | PB-221-232 | $4.50 | PB-221-780 | $3.75 | None. |
| *Ammonium ion* | | PB-221-235 | 5.45 | | | Do. |
| Ammonium alginate [1] | | | | | | |
| Aluminum ammonium sulfate [2] | | | | | | |
| Ammonium bicarbonate | 1 | | | | | |
| Ammonium carbonate | 1 | | | | | |
| Ammonium chloride | 1 | | | | | |
| Ammonium glutamate [3] | | | | | | |
| Ammonium hydroxide | 1 | | | | | |
| Ammonium phosphate | 1 | | | | | |
| Ammonium saccharin [4] | | | | | | |
| Ammonium sulfate | 1 | | | | | |
| *Iodine and iodine salts* | | PB-223-849/AS | 3.75 | | | Do. |
| Calcium iodate | 1 | | | | | |
| Cuprous iodide [5] | | | | | | |
| Potassium iodide | 1 | | | | | |
| Potassium iodate | 1 | | | | | |
| *Aconitic acid* | 1 | PB-223-847/AS | 2.75 | | | Do. |

[1] Included in report on alginates.
[2] To be included in report on aluminum salts.
[3] To be included in report on other glutamates.
[4] To be included in report on saccharin and its derivatives.
[5] To be included in report on other copper salts.

Reports given in the table may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22151. The above titles may also be purchased in microfiche form. Microfiche document prices are $1.45 each for those with order numbers having an FDABF prefix or AS suffix, and $0.95 each for all others.

In addition to the information contained in the Scientific Literature Review, the Select Committee supplemented, where appropriate, the scientific information developed in the reviews with updated information and expert consultations. The order number, if any, for such materials is listed in the "other information" column of the table. Aside from extracting all relevant information from standard reference sources, the following specialized sources were used:

1. *Chemical Mutagenesis: a Survey of the 1971 Literature.* 1973. Environmental Mutagen Information Center. Report ORNL–EMIC–2. Oak Ridge National Laboratory, Oak Ridge, TN, 273 pp.

2. *Chemical Mutagenesis in Laboratory Animals: a Bibliography on the Effects of Chemicals on Germ Cells.* 1973. Environmental Mutagen Information Center. Report ORNL–EMIC–5. Oak Ridge National Laboratory, Oak Ridge, TN, 80 pp.

3. *Computer Literature Retrieval Systems/ MEDLINE (including COMPFILE, MEDFILE and SDILINE) and TOXLINE (including CHEMLINE).* National Library of Medicine, Bethesda, MD.

4. *Drug Interactions: an Annotated Bibliography with Selected Excerpts 1967–1970, Vol. 1.* 1972. National Library of Medicine, Toxicology Information Program. U.S. Department of Health, Education, and Welfare, Public Health Service. DHEW publication no. (NIH) 73–322. U.S. Government Printing Office, Washington, DC.

5. *The Mutagenicity and Teratogenicity of a Selected Number of Food Additives (EMIC/GRAS Literature Review).* 1973. Environmental Mutagen Information Center. Report ORNL–EMIC–1 (2 parts). Oak Ridge National Laboratory, Oak Ridge, TN, 448 pp.

The Select Committee's tentative reports on stannous chloride, ammonium ion, iodine and iodine salts, and aconitic acid are available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852 and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204.

In order to schedule the public hearing, it is necessary that the Select Committee be informed of the number of persons who wish to take advantage of this opportunity for hearing, and the length of time requested for presentation of their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, and all such requests shall be placed on public display in that office. Any such request shall be postmarked on or before October 23, 1974, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state the length of time requested for the presentation. As soon as possible thereafter, a notice will be published in the FEDERAL REGISTER announcing the date, time, place, and scheduled presentations for any public hearing that may be requested.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee with respect to the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending upon the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Individuals and organizations with common interests are urged to consolidate their presentations in view of the limitations of time. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the above address, and shall be postmarked not later than 10 days prior to the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. A hearing will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: September 9, 1974.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.74-21207 Filed 9-20-74;8:45 am]

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PART III

# THE PRESIDENT

■

# SPECIAL MESSAGE TO CONGRESS ON BUDGET RESCISSIONS AND DEFERRALS

# Special Message on Budget Rescissions and Deferrals

*To the Congress of the United States:*

The recently enacted Congressional Budget and Impoundment Control Act of 1974 provides new procedures for executive reporting and congressional review of actions by the executive branch affecting the flow of Federal spending. It thereby serves to make the Congress a full partner in the continuing struggle to keep Federal spending under control.

The new law provides that the executive branch may seek to alter the normal course of spending either through deferrals of spending actions or by asking the Congress to rescind authority to spend. The use of funds may be deferred unless either House of the Congress enacts a resolution requiring that they be made available for spending. For executive rescission proposals to take effect, the Congress must enact rescission bills within 45 days of continuous session.

Following these procedures, I am today reporting the first in a series of deferrals and proposed rescissions.

As is often the case in the institution of new procedures, and in the implementation of new laws, there are questions as to what the law may require of the executive branch and what the Congress may expect. In this instance, the Attorney General has determined that this act applies only to determinations to withhold budget authority which have been made since the law was approved.

However, I am including in today's submission to the Congress reports on some actions which were concluded before the effective date of the act. While these items are not subject, in the Attorney General's opinion, to congressional ratification or disapproval as are those addressed in the recent law, I believe that it is appropriate that I use this occasion to transmit this information to the Congress.

Reasonable men frequently differ on interpretation of law. The law to which this message pertains is no exception. It is particularly important that the executive and legislative branches develop a common understanding as to its operation. Such an understanding is both in keeping with the spirit of partnership implicit in the law and essential for its effective use. As we begin management of the Federal budget under this new statute, I would appreciate further guidance from the Congress.

The added information on the status of funds not subject to Congressional action is being made available with this in mind. It will also permit a better understanding of the status of some funds reported previously under the earlier impoundment reporting law.

Virtually all of the actions included in this report were anticipated in the 1975 budget, and six of them were taken before July 12, when the new procedures came into effect. Failure to take these actions would cause more than $20 billion of additional funds to become available for obligation. The immediate release of these funds would raise Federal spending by nearly $600 million in the current fiscal year. More significantly, outlays would rise by over $2 billion in 1976 and even more in 1977, the first year in which the new procedures for congressional review of the budget will be in full effect.

The deferrals of budget authority being reported today total $19.8 billion. The major deferrals are:

—Grants for waste treatment plant construction ($9 billion). Release of all these funds would be highly inflationary, particularly in view of the rapid rise in non-Federal spending for pollution control. Some of the funds now deferred will be allotted on or prior to February 1, 1975.

—Federal aid highway funds ($4.4 billion for fiscal year 1975 and $6.4 billion for fiscal year 1976). Release of these funds would also be highly inflationary and would have to be offset by cuts in higher priority programs. Some of the funds are being withheld pending resolution of court cases concerning the environmental effects of proposed highway construction.

—Various programs of the Department of Health, Education, and Welfare ($39.6 million). Pending enactment of the 1975 appropriations, HEW funds are being provided under a continuing resolution. Amounts available under the continuing resolution above the budget request are deferred to preserve the flexibility of the Congress and the Administration in arriving at a final decision on the funding levels for these programs.

The larger of the two rescissions which I am proposing would write off the $456 million of budget authority provided for rural electric and telephone loans at a 2 percent interest rate. The release of these funds would be inconsistent with the legislation enacted in 1973, which limits the availability of 2 percent loans to cases of special need. Loans to borrowers who meet the specified criteria can be financed out of funds provided by the pending Agriculture Appropriations Act.

The deferrals and rescissions covered in this first report are those believed to be of particular interest to the Congress and which would have significant impact on budget spending if released. They are summarized in the attached table. A second report of a series on additional deferrals and rescissions will be submitted to the Congress soon.

Budgetary restraint remains a crucial factor in our efforts to bring inflation under control. In today's environment, we cannot allow excess

Federal spending to stimulate demand in a way that exerts further pressures on prices. And we cannot expect others to exercise necessary restraint unless the Government itself does so.

The responsible apportionment of congressional appropriations and other Federal budget authority is an essential—though often controversial—element of budget execution. Sound management principles and common sense dictate that Federal agencies spend money in an orderly fashion and only to the extent necessary to carry out the objectives for which the spending authority was provided. Current economic conditions require extra care to assure that Federal spending is held to the minimum levels necessary.

The deferrals and rescissions described in the attached report represent an essential step toward the goal of reducing spending and achieving the balanced budget we seek by fiscal year 1976. These actions, by themselves, will not be enough. However, failure to take and sustain this important step would jeopardize our ability to control Federal spending not only during the current fiscal year but, more importantly, for several years to come.

Gerald R. Ford

THE WHITE HOUSE,
*September 20, 1974.*

SUMMARY
PROPOSED RESCISSIONS AND DEFERRALS
(dollars in thousands)

| Item | Budget Authority |
|---|---|
| Rescissions: | |
| Appalachian Regional Development Programs: | |
| Airport Construction* | 40,000 |
| Agriculture: Rural Electrification Administration: Loans* | 455,635 |
| Deferrals: | |
| To be deferred part of year: | |
| Corps of Engineers - General construction | 108 |
| Health, Education and Welfare: | |
| Library resources | 5,437 |
| Higher education: | |
| (University community services) | 2,906 |
| (Land grant colleges) | 9,500 |
| (State postsecondary education commissions) | 350 |
| School assistance in federally affected areas | 16,000 |
| Rehabilitation services (innovation and expansion) | 5,000 |
| Public assistance (Child welfare services) | 375 |
| Environmental Protection Agency: | |
| Construction Grants* | 9,000,000 |
| General Services Administration: | |
| Automatic data processing fund | 4,300 |
| To be deferred for entire year: | |
| Agriculture: Agriculture research service (Construction)* | 770 |
| Commerce: Fisheries loan fund* | 4,039 |
| Interior: | |
| Oregon and California Grant lands* | 23,693 |
| Construction and rehabilitation | 1,055 |
| Upper Colorado River Basin fund | 1,150 |
| State: International Center, Washington, D.C. | 500 |
| Transportation: Federal-aid highways | |
| 1975 & prior programs | 4,370,090 |
| 1976 program | 6,357,500 |
| Foreign Claims Settlement Commission: | |
| Payment to Vietnam prisoners of war | 10,500 |
| General Services Administration: | |
| Automatic data processing fund | 14,000 |
| Total | 20,322,908 |

*Action taken prior to enactment of the Impoundment Control Act on July 12, 1974.

Rescission Proposal No.: R75-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Sec. 1012 of P.L. 93-344

| | | |
|---|---|---|
| Agency Appalachian Regional Commission (ARC) | New budgetary resources (P.L. 92-65 ) | $ 185,000,000 |
| Bureau | Unobligated balance from prior years | 240,000,000 |
| Appropriation Title & Symbol Appalachian Regional Development Programs 11X0090 (Section 208 - Appalachian Airport Safety Improvements) | Total Budgetary Resources | 425,000,000 |
| | Amount proposed for rescission | 40,000,000 |

JUSTIFICATION: Contract authority of $40,000,000 is proposed for withdrawal pursuant to the Antideficiency Act (31 U.S.C. 665). The airport safety activities provided for under this contract authority are already being achieved under the authority for the FAA program for navigation aids, the national program of grants-in-aid for airports and by State and local governments through ARC's Supplemental Grant authority. The Federal Cochairman of ARC does not plan to request an appropriation to liquidate this contract authority prior to the expiration of the authorization on June 30, 1975, and has so notified the State members of the Commission.

ESTIMATED EFFECTS: The withdrawal of this contract authority will not significantly affect the ability of localities in the Appalachian region to improve their airports because of the existence of other airport construction and safety programs.

Had there been an appropriation in 1975 to liquidate this contract authority, this withdrawal would represent outlay savings of approximately $2,000,000 in FY 1975 and future savings of approximately $4,000,000 in FY 1976 and $9,000,000 in FY 1977. The FY 1975 savings are assumed in the latest budget estimates. Thus, this withdrawal has the effect of maintaining the current budget estimates.

A BILL

To delete the contract authority contained in Section 208 of the Appalachian Regional Development Act of 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,

Subsection (f) of Section 208 of the Appalachian Regional Development Act of 1965 (85 Stat. 169, 40 App. U.S.C. 208) is deleted.

Rescission Proposal No.: R75-2

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Sec. 1012 of P.L. 93-344

| | | |
|---|---|---|
| Agency: Agriculture | New budget authority (P.L. _____) | $ _____ |
| Bureau: Rural Electrification Administration | Other budgetary resources | 455,635,000 |
| Appropriation Title & Symbol: Loans 12X3197 | Total Budgetary Resources | 455,635,000 |
| | Amount proposed for rescission | 455,635,000 |

Justification

Public Law 93-32, approved May 11, 1973, amended the Rural Electrification Act by establishing the Rural Electrification and Telephone Revolving Fund (RETRF). Insured electric and telephone loans are now financed from this fund. Public Law 93-32 recognized and dealt with two major objectives which were particularly essential to the reform of the REA program. First, it limited the availability of Federally insured loans at the "special" 2% interest rate to those electric or telephone borrowers in rural areas with a definite need as defined explicitly in the legislation. Second, it provided that in those areas in which the borrowers are able and can afford to help themselves, credit and assistance will come from the private sector.

The funds now proposed for recission, when appropriated, were for direct Government loans at 2% interest for all borrowers in rural areas for the purposes authorized in Sections 4 and 201 of the Act. We believe that the Congress in enacting Public Law 93-32, subsequent to this authorization, recognized that the need for the indiscriminate use of a 2% interest rate should now be limited to those borrowers meeting the criteria for need expressed in Section 305(b) of the Act, as amended by P.L. 93-32.

Estimated Effects

No effect is anticipated since use of the funds is not planned and the needs of the borrowers for insured loans at the special rate can be met within levels of funding to be provided when the Appropriation Act is enacted.

If the Department were to obligate these funds in 1975, they would be made available to borrowers that do not qualify under current law and added spending would result as follows:

| | FY 1975 | FY 1976 | FY 1977 |
|---|---|---|---|
| Electric loans..... | $122,155,333 | $122,155,333 | $122,155,334 |
| Telephone loans..... | 29,722,842 | 29,722,842 | 29,722,841 |
| TOTAL..... | $151,878,175 | $151,878,175 | $151,878,175 |

DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION
LOAN AUTHORIZATIONS

Authorizations provided under this heading in the Act of August 22, 1972 (Public Law 92-399) are reduced in the following amounts: rural electrification program, $366,466,000, and rural telephone program, $89,168,525.

Deferral No.: D75-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of the Army | New budget authority<br>(P.L. _____) | $ - 0 - |
| Bureau<br>Corps of Engineers, Civil | Other budgetary resources | 108,000 |
| Appropriation Title & Symbol<br>Construction, General, COE,<br>Civil 96X3122 | Total Budgetary Resources | 108,000 |
| | Amount to be deferred part of year | |
| | Amount to be deferred for entire year | 108,000 |

Justification

Pursuant to the Antideficiency Act (31 U.S.C. 665), funds for the construction of Lafayette Reservoir, Indiana, have been placed in reserve for contingencies because environmental opposition to the project required that a restudy of the project be conducted. An environmental study has been commissioned to reassess and update an earlier environmental impact statement which had been prepared in accordance with the National Environmental Protection Act, P.L. 91-190. A decision on the next steps will be made after review of the completed study.

Estimated Effects

The Corps' outlays will be reduced by $108,000 during the period of this deferral.

Deferral No. D75-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | |
|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324 ) $11,647,000 |
| Bureau Office of Education | Other budgetary resources ---- |
| | Total Budgetary Resources 11,647,000 |
| Appropriation Title & Symbol Library Resources - 7550212 (Public Libraries) | Amount to be deferred part of year 5,437,000 |
| | Amount to be deferred for entire year --- |

Justification:

The 1975 budget proposed continuing the Public Libraries program at a level of $25.0 million. The House passed HEW-Labor appropriations bill provides $46,749 thousand, presumably the maximum annual rate available under the Continuing Resolution. In addition, the Library Partnership Act has been submitted by the Administration at $15.0 million and is designed to give greater impact to Federal funding directed toward public libraries. Demonstrations will be supported that test the integration of library and information service, and new methods of library service delivery. This deferral is proposed until enactment of the Labor-HEW appropriation bill.

Estimated Effects:

The effect of this deferral is to fund the program at a level of $6,210,000 in the first quarter as contrasted to $11,647,000 per quarter in FY 1974.

Deferral No. 075-3

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | |
|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324) $3,206,000 |
| Bureau Office of Education | Other budgetary resources ___ |
| | Total Budgetary Resources 3,206,000 |
| Appropriation Title & Symbol Higher Education - 7550293 (University Community Services) | Amount to be deferred part of year 2,906,000 |
| | Amount to be deferred for entire year --- |

Justification:

No funds were requested in the 1975 President's Budget for the University Community Services program because this program provided support for projects of cooperation between communities and universities, which is primarily the responsibility of the State or locality. Aid directed to the student is a more desirable use of Federal resources in Higher Education. The House, in acting on the Labor-HEW bill, provided an appropriation of $14,250 thousand, presumably the maximum annual rate permissible under the Continuing Resolution. This deferral does not address the 10% of the appropriation which is reserved to the Commissioner which is not normally obligated until later in the fiscal year. Of the remaining 90%, an amount of $3,206 thousand would presumably be available for the first quarter.

Funds of $300 thousand have been released under the Continuing Resolution to cover operating expenses of State agencies during the first quarter. Although more funds could be released under the Continuing Resolution, there is no urgent need to do so. If an appropriation is enacted before the end of the first quarter; the entire amount appropriated can be utilized in an orderly and efficient manner. In the meantime, this proposed deferral, pending Senate action on the Labor-HEW bill, would preserve the flexibility of the Congress and the Administration in arriving at a final decision on the level at which this program should be continued.

Estimated Effects:

Except for the State agency operating expenses, for which funds have been released, the States and institutions do not begin using the funds until later in the year. Therefore, the effect on institutions of a deferral through the first quarter is not adverse. Excluding the released $300 thousand this proposal will have no budgetary impact. The total outlay saving is $2,906 thousand in the first quarter of FY 1975. These savings are reflected in the latest budget estimates.

Deferral No. D75-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | |
|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324) $9,500,000 |
| Bureau Office of Education | Other budgetary resources ___ |
| | Total Budgetary Resources 9,500,000 |
| Appropriation Title & Symbol Higher Education - 7550293 (Land Grant Colleges) | Amount to be deferred part of year 9,500,000 |
| | Amount to be deferred for entire year --- |

Justification:

The Administration has submitted legislation to repeal the Bankhead-Jones Act which authorizes an annual appropriation for the support of land grant colleges. No funds were requested in the President's 1975 Budget to continue support for this activity. However, the House approved a $9.5 million appropriation in the Labor-HEW bill. This amount is presumably the maximum rate permissible under the Continuing Resolution. It is proposed to defer obligation and expenditure of funds for this activity pending Senate action on the Labor-HEW bill and in order to preserve the flexibility of the Congress and the Administration in arriving at a final decision on the future of this program.

Estimated Effects:

The programmatic effect of a first quarter deferral will not be severe, although institutions are accustomed to receiving these funds in August. Pending a final resolution of the future of the program, a deferral is preferable to a first quarter allotment of one-fourth of the funds authorized. Full obligation and expenditure of the annual amount at this time would preempt the Congress' ability to deal with the legislative question. Total outlay savings are $9.5 million and are reflected in the 1975 budget.

Deferral No. D-75-5

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | |
|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324) $750,000 |
| Bureau Office of Education | Other budgetary resources ___ |
| | Total Budgetary Resources 750,000 |
| Appropriation Title & Symbol | |
| Higher Education - 7550293 (State Postsecondary Education Commissions) | Amount to be deferred part of year 350,000 |
| | Amount to be deferred for entire year --- |

Justification:

No funds were requested in the 1975 President's Budget to continue support for this activity, on the grounds that the programs which the commissions administer are now so small that the required funding level can be borne out of other State funds. However, the House, in acting on the Labor-HEW bill, provided an appropriation of $3 million, the same as the 1974 level and presumably the maximum annual rate permissible under the Continuing Resolution. An amount of $400 thousand has been released to provide funds needed by State agencies during the first quarter to administer certain Federal programs for which funds were appropriated during 1974. While additional funds of $350 thousand could be released under authority of the Continuing Resolution to carry out comprehensive planning activities, the relatively small increment for each State could not be utilized in an orderly way. This deferral is proposed pending Senate action on the Labor-HEW bill and to preserve the flexibility of the Congress and the Administration in arriving at a final decision on funding for this program.

Estimated Effects:

A first quarter deferral will have little programmatic effect. State agencies will not be helped by small incremental funding. Except for the $400 thousand already released, this proposed action has no budgetary impact. The total outlay savings is $350 thousand in the first quarter of FY 1975. These savings are reflected in the latest budget estimate.

Deferral No. D75-6

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | |
|---|---|
| Agency<br>Department of Health, Education, and Welfare | New budget authority (P.L. 93-324 ) $16,000,000 |
| Bureau<br>Office of Education | Other budgetary resources |
| | Total Budgetary Resources 16,000,000 |
| Appropriation Title & Symbol<br>School Assistance in Federally Affected Areas - 7550280<br>(Payments for "B" children) | Amount to be deferred part of year 16,000,000 |
| | Amount to be deferred for entire year --- |

Justification:

This is a program of aid to school districts, authorized by P.L. 81-874, that provides support to eligible districts to offset revenue lost due to the presence of Federal, non-taxable land.

The Continuing Resolution (P.L. 93-324) continues funding through September 30, 1974 of payments to school districts with Section 3(b) children most of whose parents work on Federal property and live on private property paying local property taxes for the support of their schools. No funds were requested in the President's 1975 Budget for these children. An amount of $40 million was budgeted to provide funds on a hardship basis (no school district would lose an amount greater than 5 percent of its 1974 operating budget) for those school districts which will be most severely affected by the termination of funding for "B" children.

Neither the House nor the Senate has considered the proposed budget for this program. The requested deferral of $16.0 million represents the estimated amount which would be obligated through September 30, 1974 (the current expiration date of the Continuing Resolution). This amount is proposed for deferral to preserve the flexibility of the Congress and the Administration in arriving at a final decision on the level at which this program should be continued.

It is believed that this type of Federal activity does not really constitute an economic burden on local schools. Withholding of 3(b) funds will effect no severe hardship on any school district during the first quarter.

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Estimated Effects:

The total outlay savings from deferring 3(b) funds is $16,000,000 through the first quarter of FY 1975. These savings are reflected in the latest budget estimate. Estimated outlays under the hardship provision (upon enactment) remain the same as reflected in the President's Budget; 1975, $28,000,000; 1976, $11,000,000; and 1977, $1,000,000.

Deferral No.: D75-7

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324 ) | $ 5,000,000 |
| Bureau Social and Rehabilitation Service | Other budgetary resources | --- |
| Appropriation Title & Symbol | Total Budgetary Resources | 5,000,000 |
| Rehabilitation Services - 7550508 (Innovation and Expansion) | Amount to be deferred part of year | 5,000,000 |
| | Amount to be deferred for entire year | --- |

Justification:

No funds were requested in the 1975 Budget for this program. The House-passed bill included $20,000,000 for this program, and we assume that is the authorized level of activity for purposes of the Continuing Resolution. The FY 1974 appropriation included funds to cover the final phase of a three year program to expand vocational rehabilitation services to recipients of Public Assistance. The objectives of this program have been achieved. The budget is based on full funding of Section 110, the basic state grant program, which provides funding for the same kinds of services for the rehabilitation of the handicapped in the regular State programs, at a much larger level of expenditure. In a period of two years, the amount requested for that program has increased by almost $100 million. This increase provides the States with the leeway necessary to accomplish all of the objectives of both the state grant program and the expansion grant program particularly since the latter program was made a formula grant program under the provisions of the 1973 Act. The Senate has not yet acted on the appropriations bill for this program.

This deferral is proposed to preserve the flexibility of the Congress and the Administration in arriving at a final decision of funding for this program.

Estimated Effects:

There are already a number of important initiatives to focus vocational rehabilitation services on the severely disabled within the basic state grant program. The total outlay savings for this deferral is $5,000,000 in the first quarter of FY 1975, i.e., one quarter of the $20,000,000 level available under the Continuing Resolution. These savings are reflected in the latest budget estimates.

Deferral No.: D75-8

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency Department of Health, Education, and Welfare | New budget authority (P.L. 93-324) | $ 11,875,000 |
| Bureau Social and Rehabilitation Service | Other budgetary resources | --- |
| Appropriation Title & Symbol | Total Budgetary Resources | 11,875,000 |
| Public Assistance - 754/50581 (Child Welfare Services) | Amount to be deferred part of year | 375,000 |
| | Amount to be deferred for entire year | --- |

Justification:

The amount of $46,000,000 was requested in the 1975 Budget for support of Child Welfare Services authorized under Title IV, Part B, Section 420 of the Social Security Act. The House-passed appropriations bill included $47,500,000 for this program, which is presumably the authorized level of activity under the Continuing Resolution. The budget request reflected the historic level of support which existed for the several preceeding years.

Federal support under Title IV, Part B, has always been a small portion (about 3%) of the total Child Welfare Services funded under Title IV, Parts A and B. Due to increases in other programs dealing with Child Welfare Services, especially under public assistance social services (Title IV, Part A), there is no need to increase this appropriation. The Senate has not yet acted on the appropriations for this program. This deferral is proposed to preserve the flexibility of the Congress and the Administration in arriving at a final decision on a funding level for this program.

Estimated Effects:

The proposed deferral for Title IV, Part B, Child Welfare Services until the end of the first quarter or until the 1975 appropriation is finalized, whichever is sooner, would have a negligible effect on the provision of services or the number of persons receiving services.

Federal dollars in this program represent a small portion of the activities funded by State and other Federal grant programs. The total outlay savings is $375,000. These savings are reflected in the latest budget estimate.

Deferral No.: D75-9

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Environmental Protection Agency | New budget authority<br>(P.L. 92-500 ) | $ 9,000,000,000 |
| Bureau<br>Water Program Operations | Other budgetary resources | |
| Appropriation Title & Symbol<br><br>Construction Grants<br>68X0103 | Total Budgetary Resources | 9,000,000,000 |
| | Amount to be deferred part of year | 9,000,000,000 |
| | Amount to be deferred for entire year | |

Justification:

1. Deferral of Funds

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) authorized funds to finance the construction of waste treatment plants. The Administration has consistently held that the Act vests discretion in the Administrator of the Environmental Protection Agency to allot less than the maximum amounts of contract authority authorized by the Act. At this date, $9 billion authorized by the Act are either unallotted, or being withheld from obligation at the direction of the Federal Courts pending a Supreme Court review of lower court decisions. The matter before the courts involves the question of authority to allot amounts less than the maximums authorized in the Act.

2. Period of Deferral

The period of deferral of the unallotted contract authority is dependent upon two events:

a. An allotment of a substantial portion of the funds will be made to the States on or prior to February 1, 1975. The fiscal implications of allotting these funds at the present time require that determination of a specific allotment be deferred until this program's funding level can be balanced with the demand for funds for other programs in the context of the FY 1976 budget.

b. Implicit in the Supreme Court's grant of a writ of certiorari in the case is a recognition that the Administration's interpretation of the Federal Water Pollution Control Act is worthy of review. The Supreme Court's decision is anticipated prior to the end of the current fiscal year. Thus, any funds not allotted after February 1, 1975, are proposed for deferral until the Supreme Court is given the opportunity to decide the merits of the cases now before it.

## Legal Authority

It is the position of the Executive Branch that the Act permits the allotment to the States for any fiscal year of sums less than the maximum authorized for that year. That position has been challenged in a number of cases in the Federal Courts with conflicting results. Two of those cases, City of New York v. Train (Sup. Ct. No. 73-1377) and Campaign Clean Water, Inc. v. Train (Sup. Ct. No. 73-1378), are now pending before the Supreme Court on writs of certiorari. The Court will be called upon to determine whether the Water Pollution Control Act Amendments of 1972 (P.L. 92-500) vest discretion in the Administrator at the allotment stage of the waste treatment facility program. The Government contends that the Conference Committee's insertion, in Section 207 of the Act, of a provision that the contract authority authorized is "not to exceed" the stated amounts and the Committee's deletion of the word "all" from the clause "all sums authorized to be appropriated...shall be allotted..," in Section 205 establishes a clear grant of the discretion which the President has sought to exercise. This program is not one in which the Executive asserts a power to control spending in opposition to the wishes of Congress; it is one in which the President is seeking to exercise the discretion which the Congress intended that he should have. Thus, the Supreme Court is presented with a question of statutory construction as to which lower Federal courts have rendered conflicting decisions. The Court is clearly the appropriate forum in which to resolve that question, pending which contract authority should continue at present rates of availability.

## Reason for the Deferral

The Federal Water Pollution Control Act authorized the allotment of a maximum of $18 billion over a three year period beginning in FY 1973. The following table shows the status of these funds as of July 1, 1974.

CONSTRUCTION GRANT OBLIGATIONS
($ in Millions)

| Fiscal Year | Authorization | Allotment | Obligation of Allotments 1973 | 1974 | 1975 est. |
|---|---|---|---|---|---|
| 1973 | 5,000 | 2,000 | 1,337 | 663 | - |
| 1974 | 6,000 | 3,000 | 194 | 700 | 2,106 |
| 1975 | 7,000 | 4,000 | - | 82 | 1,797 |
| | $18,000 | $9,000 | $1,531 | $1,445 | $3,903 |

The obligation estimated for FY 1975 of nearly $4 billion from P.L. 92-500 funds is more than double the amount obligated from this source in FY 1973 or FY 1974 and nearly three times the $1.3 billion obligated in FY 1973 from funds provided by prior authorizations. Outlays are increasing even more dramatically, from a total of $684 million in FY 1973 to $1.6 billion in FY 1974 and an estimate of approximately $3 billion in FY 1975.

The fiscal year 1976 and 1977 outlays, related to an allotment of an additional $9 billion, would be in the range of a total of $1 billion. This would require reductions in spending for other programs if balanced budgets are to be achieved as called for by many members of Congress and the President. The main impact of this problem would occur in the first year that all Congressional and Executive budget actions will be subject to the new Impoundment Control Act of 1974.

Estimated Effects

The allotment of an additional $9 billion would add to the inflationary pressure currently being exerted on the national economy.

Inflation is now recognized as a crucial economic problem for this nation. In the first two quarters of 1974, for example, the implicit GNP price deflator has risen by 12.3 percent and 9.6 percent respectively. Certainly, without prudent governmental offset policies inflation would continue at this dangerous level into the foreseeable future. Thus, the fiscal and monetary policies of this administration and of the Federal Reserve System have been directed toward economic restraint. Additional fiscal stimulus would only fuel the current inflationary pressures. Moreover, in the current climate of inflation-oriented expectations, this additional fiscal stimuli might serve as a signal to business and labor as well as to consumers and investors that the government will not be able to check inflation and that they should therefore base their future decisions on the assumption that prices will continue to rise rapidly.

It should be emphasized that there is currently no dearth of investment in the pollution abatement sector. To the contrary, because of Federal regulatory activities, expenditures for this purpose are increasing at a substantial rate without any increase in Federal spending over existing levels. It has been estimated that U.S. nonfarm business spent $4.9 billion in 1973 for pollution abatement alone, and will spend $6.5 billion in 1974 for the same purpose, an increase of 26 percent.

Federal outlays for pollution control and abatement will approach $4 billion in 1975, an increase of over 50 percent from 1974 and an average annual increase of 74 percent since 1972. While up-to-date statistics are not available for the State and local sector, some understanding of their activity can be obtained through the activity of tax-exempt bonds for pollution control. In the first half of this year, tax-exempt bond financing for pollution abatement grew 42 percent over the equivalent period last year, growing from $859 million to $1,222 million, despite soaring interest rates. Though the majority of these issues will finance business construction, a growing percentage will finance governmental construction.

Collectively, these figures demonstrate a sizable and growing national investment in pollution abatement. In the judgment of the Administration, the allotment of an additional $9 billion at this time would generate inflationary pressures in both the industries concerned and the economy as a whole. For these reasons, the President has no choice but to defer this authority.

Deferral No.: D75-10

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>General Services Administration | New budget authority (P.L. _____) | $ -- |
| Bureau | Other budgetary resources | 81,653,000 |
| Appropriation Title & Symbol<br>Automatic Data Processing Fund | Total Budgetary Resources | 81,653,000 |
| | Amount to be deferred part of year | 4,300,000 |
| | Amount to be deferred for entire year | 14,000,000 |

Justification

The 1975 budget provides a capital purchase level in the ADP Revolving Fund of $6M. Of this amount, $1.7M has been apportioned and $4.3M is being deferred, pending development by GSA of criteria for opportunity buy decisions. These opportunity buys represent purchases by GSA of bargain priced computer equipment which will be available for a limited time period and for which the using agency does not have funds available for procurement. It is expected that the $4.3M will be apportioned by the end of the first quarter.

The current estimate is that of the $81.7M in available resources, $42.1M will be obligated for operating costs and capital outlays. This will leave a balance for requirements in subsequent years of $37.5M. Of this balance, $14.0M is deferred for the entire fiscal year 1975 in order to achieve the most effective and economical use of funds (Anti-Deficiency Act, 31 U.S.C. 665), consistent with the Office of Management and Budget's oversight responsibility under the Federal Property and Administrative Services Act of 1949 (Section 111(g) U.S.C. 759). This action is consistent with present estimates of opportunity buys which could effectively meet agency demands and program requirements. It also anticipates greater reliance on long-term leasing which would be available upon enactment of pending legislation.

Estimated Effects:

There will be no impact on agency programs as it is not expected that discount purchases will be precluded where there is a justified agency program requirement for ADP purchases and financing is not otherwise available. The part-year deferral of $4.3M will have no effect on budget outlays. The $14M deferral will result in outlay savings of $7M in FY 75, no change in FY 76, and an increase of $7M in FY 77. The deferral will maintain current budget estimates.

Deferral No.: D75-11

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>U.S. Department of Agriculture | New budget authority (P.L. _____) | $ -- |
| Bureau<br>Agricultural Research Service | Other budgetary resources | 4,556,000 |
| Appropriation Title & Symbol<br><br>Agricultural Research Service<br>(Construction) 12X1400 | Total Budgetary Resources | 4,556,000 |
| | Amount to be deferred part of year | -- |
| | Amount to be deferred for entire year | 770,000 |

Justification

At the present time, the research facilities of the ARS are not fully utilized - a recent review indicated that the 3,352 laboratories operated nationwide are staffed at 85% of their capacity in terms of scientific man-years, 73% with ARS personnel and 12% with non-ARS personnel.

Although this situation is due, in part, to efforts to hold down Federal employment, it also is due to the agency's efforts to optimize such staffing by terminating projects which have served their purpose and relocating and consolidating similar lines of work at the various locations.

The Department, with the support of the Congress, is continuing to improve utilization by further sharing of the resources with other Federal agencies.

In view of this situation and the need to continue efforts to hold down Federal employment and budgetary costs during the fiscal year 1975, the use of funds for the following projects have been deferred through June 30, 1975:

1. Beckley, West Virginia; $700,000 for construction of a soil and water research laboratory.

2. Ithaca, New York; $40,000 for planning a soil and water conservation research facility.

3. Albany, California; $15,000 for updating the planning of a wool research laboratory. Initial planning has been completed.

4. Riverside, California; $15,000 for updating the planning of a soil and water conservation laboratory. Initial planning has been completed.

Estimated Effects

No significant impact. Outlay savings would be approximately $250,000 annually over a three-year period or until the year the construction is initiated.

Deferral No.: D75-12

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of Commerce | New budget authority (P.L. _____) | $ _____ |
| Bureau National Oceanic and Atmospheric Administration | Other budgetary resources | 4,659,000 1/ |
| Appropriation Title & Symbol | Total Budgetary Resources | 4,659,000 |
| Fisheries Loan Fund<br>137/04317 | Amount to be deferred part of year | _____ |
| | Amount to be deferred for entire year | 4,039,000 |

1/ Reflects an increase of $2,924,000 over amounts shown in the President's FY 1975 Budget due to current receipts from loan repayments.

Justification

The Fisheries Loan Fund was established pursuant to section 4 of the Fish and Wildlife Act of 1956, as amended (16 USC 742c). The purpose of the Fund, "is to provide financial assistance which will aid the commercial fishing industry to bring about a general upgrading of the condition of both commercial fishing vessels and gear thereby contributing to more efficient and profitable fishing operations" (50 CFR 250.2). This is a revolving fund with an authorized level of $20 million. Loans from the Fund can be provided whenever members of the fishing industry are unable to obtain commercial loans on reasonable terms.

By notice of action recorded in the Federal Register on February 20, 1973, the Administrator of the National Oceanic and Atmospheric Administration (NOAA) declared a moratorium on accepting further loan applications effective March 1, 1973, until further notice. The order indicated that, "the aggregate amount of outstanding loans, applications on hand or anticipated, and the Fund's actual or contingent expenses are expected to exhaust the Fund's ability to make further loans in a meaningful manner until such a time as scheduled collections sufficiently restore the Fund's available capital."

On February 22, 1973, the General Accounting Office issued a report entitled the "Need to Establish Priorities and Criteria for Managing Assistance Programs for U. S. Fishing-Vessel Operators (B-177024). The GAO concluded in its report that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels rather than improving vessels and equipment for more efficient and profitable fishing, and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO recommended that the Secretary of Commerce, to the extent legally permissible, develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

NOAA has had the management of the Fisheries Loan Fund and the recommendations of the GAO under review. NOAA agrees with the GAO on the need to restrict loans from the Fund to improving efficient vessels in under-capitalized areas or where an excess harvesting capacity does not already exist. NOAA has determined that legislative clarification of the Act will be required to establish criteria for directing the Fund. A legislative proposal is expected to be included in the Department of Commerce's legislative program submitted with the FY 1976 budget. Until such time as legislative clarification has been obtained and the Fund regains a stronger capital position, we believe that prudent management dictates that the moratorium remain in effect and the receipts of the Fund continue to be held in reserve for contingencies (31 USC 665).

Estimated Effects

If these funds are released, then the probability exists that loans made from the Fund would not be directed toward improving U.S. fishing fleet efficiency and competitiveness due to lack of meaningful criteria. Release of these funds would also result in increasing FY 1975 outlays by $1,750,000 over that shown in the President's Budget.

Deferral No.: D75-13

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Dept. of the Interior | New budget authority (P.L. ) | $ 47,200,000 |
| Bureau<br>Bureau of Land Management | Other budgetary resources | 8,743,000 |
| Appropriation Title & Symbol | Total Budgetary Resources | 55,943,000 |
| 14X5136<br>Oregon and California Grant Lands | Amount to be deferred part of year | 0 |
| | Amount to be deferred for entire year | 23,693,000 |

Justification: Annual appropriation bill language in recent years consistently provides that 25 percent of current year receipts from Oregon and California grant lands be used to fund this account. The account provides for management, development, and protection of Federal Oregon and California grant lands including the construction, and maintenance of roads. The President's budget estimated 25 percent of 1975 receipts to be $28,750,000, and a program was designed to obligate that amount. The budget predicted that $5,243,000 of unobligated balances from prior years would be carried into FY 1975 and a like amount would be carried into FY 1976.

Subsequent to preparation of the budget, $3,500,000 planned for use in 1974 was deferred until 1975; thus, the current estimate of 1975 obligations is $32,250,000. The 1975 budget authority estimate has now been increased by the Department of the Interior to $47,200,000 because of higher estimated prices for sawtimber. The program plan for use of the funds has not been changed. Therefore, the total amount now expected to be deferred through FY 1975 is $23,693,000 - $5,243,000 originally planned plus the $18,450,000 increase.

The program plan remains the same as budgeted because the management, protection, and development opportunities are largely independent of sawtimber prices. Because budget authority is based on current year receipts, the budget authority available for a year is never finally known until the end of the year. For these reasons, carryovers are retained as a cushion for the possibility that receipts turn out to be lower than anticipated. Failure to do this could result in over programming. As receipts estimates are changed after submission of the President's budget, the program level is held relatively constant as a matter of sound management practice and the changes in funding are accounted for by adjusting the amount deferred. This may either be an increase or decrease in the amount deferred. This is a reserve for contingencies (81 U.S.C. 665).

Estimated Effects: Obligation in FY 1975 of all the deferred funds would result in $12 million of expenditures in 1975. The remainder would be expended in 1976.

Deferral No.: D75-14

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of the Interior | New budget authority (P.L. ) | $ - 0 - |
| Bureau<br>Bureau of Reclamation | Other budgetary resources | 1,055,000 |
| Appropriation Title & Symbol<br>Construction and Rehabilitation<br>14X5061 | Total Budgetary Resources | 1,055,000 |
| | Amount to be deferred part of year | |
| | Amount to be deferred for entire year | 1,055,000 |

Justification

Funds to begin construction of the 2nd Bacon Siphon and Tunnel, the first feature of the East High-East Low area of the Columbia Basin Irrigation Project, Washington are presently in reserve. The project has a total estimated Federal cost of approximately $1B. Using a discount rate of 5 7/8%, the current rate, the benefit cost ratio would be less than unity. The beneficiaries are estimated to be able to repay only 12% of the total Federal investment, requiring a subsidy of approximately $175,000 per 160 acre farm. In view of the above, an economic restudy has been undertaken. Pending the economic restudy, the 1975 budget proposed reprogramming the $1,055,000 to other projects. Though the appropriation committees called for use of the $1,055,000 for the 2nd Bacon and Siphon only, the Senate appropriation committee recommended that a study of possible alternatives to the present design of the 2nd Bacon Siphon and Tunnel be undertaken. Therefore, the funds will be deferred pending the outcome of the studies. This is a reserve for contingencies (31 U.S.C. 665).

Estimated Effects

The deferral of $1,055,000 in FY 75 results in a reduction in outlays this year by approximately that amount. If at a later date the funds were rescinded the deferral could result in a savings of some $1B. If the study produces a different design in the project feature this also could result in some savings. Should the project ultimately be built as presently designed the FY 75 deferral would result only in temporary savings.

Deferral No.: D75-15

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of the Interior | New budget authority<br>(P.L. _____) | $ - 0 - |
| Bureau<br>Reclamation | Other budgetary resources | 1,150,000 |
| Appropriation Title & Symbol<br>Upper Colorado River Basin<br>Fund 14X4081 | Total Budgetary Resources | 1,150,000 |
| | Amount to be deferred part of year | |
| | Amount to be deferred for entire year | 1,150,000 |

Justification

Funds to begin construction of 3 water resources projects (Dallas Creek participating project, Colo. - $250,000, Fruitland Mesa, Colo. - $500,000 and Savery Pot Hook project Colo., Wyo., - $250,000) have been placed in reserve pending the completion of salinity effect studies to determine each projects impact on Colorado River Salinity levels. Salinity has become an economic problem in the lower Colorado and has led to the requirement, under recent agreements, to desalt irrigation return flows before water enters Mexico. Though the specific studies described are called for by the Executive and not mandated by law, the Water Pollution Control Act amendments of 1972 provide for determining pollution abatement requirements for irrigation return flows as for other pollution sources. The reanalysis is to include estimates of the costs for pollution abatement facilities necessary to control water quality conditions. These external costs will then be considered in the justification for development of these projects. Funds for the Jensen Unit, Central Utah project, Utah - $150,000) have been placed in reserve pending the completion of a definite plan report and draft environmental impact statement. Therefore, the funds will be deferred pending the completion of these two reports. This is a reserve for contingencies (31 U.S.C. 655).

Estimated Effects

The total estimated Federal cost of these 4 projects is approximately $171.4M. The external costs of mitigating the effects of higher levels of total desolved salts in the Colorado River, as a result of constructing the 3 projects as presently designed, is being studied. Deferring the expenditure of the $1,000,000 until the external costs can be estimated delays the expenditure of that amount and may result in less costly final designs for the projects. Deferring the expenditure of the $150,000 for the Jensen Unit results in a temporary savings of that amount.

Deferral No.: D75-16

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of State | New budget authority (P.L. _____) | $ _____ |
| Bureau<br>NA | Other budgetary resources | 2,200,000 |
| Appropriation Title & Symbol<br><br>International Center, Washington, D.C.<br><br>19X5151 | Total Budgetary Resources | 2,200,000 |
| | Amount to be deferred part of year | _____ |
| | Amount to be deferred for entire year | 500,000 |

Justification:

Public Law 90-553, approved October 8, 1968, provided "That in order to facilitate the conduct of foreign relations by the Department of State in Washington, District of Columbia, through the creation of a more propitious atmosphere for the establishment of foreign government and international organization offices and other facilities, the Secretary of State is authorized to sell or lease to foreign governments and international organizations property owned by the United States in the Northwest section of the District of Columbia bounded by Connecticut Avenue, Van Ness Street, Reno Road, and Tilden Street." It also provided that certain design and site preparation activities in the described area shall be undertaken by the Secretary, in coordination with the Administrator of General Services and the government of the District of Columbia, and that the costs of those activities shall be funded from proceeds of the sale or lease of property to foreign governments and international organizations.

Public Law 93-40, approved June 12, 1973, amended the 1968 Act to authorize the appropriation, without fiscal year limitation, of not to exceed $2,200,000 to fund the design and site preparation costs, provided that the sums appropriated shall be reimbursed to the Treasury from proceeds of the sale or lease of property to foreign governments and international organizations.

The Department of State Appropriation Act, 1974 (Title I, Public Law 93-162), approved November 27, 1973, appropriated $2,200,000, to remain available until expended, for payment to a special account with the Secretary of Treasury from which the design and site preparation costs would be administered by the Secretary of State. The entire $2,200,000 was apportioned within thirty days, to that special account.

2

The full amount which can be utilized in the current fiscal year, $1,700,000, has been apportioned from the special account for obligation in 1975 for necessary design and site preparation. The balance of $500,000 has been apportioned to reserve to achieve the most economical use of appropriations and to provide for contingencies (31 U.S.C. 665 (c)(1) and (2)). It is anticipated that the reserve will be apportioned for use in 1976 as needed.

Estimated effects:

None. The amount deferred could not be obligated this year.

Deferral No.: D75-17

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency<br>Department of Transportation | New budget authority<br>(P.L. 93-87 ) | $ 6,357,500,000 |
| Bureau<br>Federal Highway Administration | Other budgetary resources | 8,970,090,427 |
| Appropriation Title & Symbol | Total Budgetary Resources | 15,327,590,427 |
| Federal-aid Highways<br>69-20X8102 | Amount to be deferred part of year | |
| | Amount to be deferred for entire year<br>1975 & prior years program<br>1976 program | 4,370,090,427<br>6,357,500,000<br>10,727,590,427 |

Justification

The $10.7 billion deferral of obligational authority consists of two components. The first is $4.37 billion associated with the contract authority for FY 1975 and prior years and already apportioned to the States. The second portion is $6.36 billion of FY 1976 authority which will be available for obligation by January 1, 1975, but cannot be expended until July 1, 1975. The FY 1976 authority will be apportioned to the States prior to January 1, 1975. In accordance with past practice, a substantial portion of the deferred funds are expected to be released at the beginning of FY 1976.

These funds are being withheld for reasons relating to economic policy, and program priorities and management. Each will be discussed in turn.

A. Economic Policy

The deferral of Federal-aid highway obligations is one of many temporary deferrals which stretch out Federal spending to minimize immediate unfavorable budgetary impact. It is one of many actions which will help reduce the 1975 deficit and balance the 1976 budget. These deferrals are consistent with the type of fiscal policy actions recommended by 54 Senators who in a letter to President Nixon on June 19, 1974, urged "remedial, dramatic action" to halt excessive spending practices that are contributing to the nation's intolerable inflation problems and requested "a proposed balanced budget for fiscal year 1975, incorporating changes in programs and funding of programs you believe necessary to meet that objective."

Without careful government policies, inflation could continue at a dangerous rate into the foreseeable future. The fiscal and monetary policies of this Administration are being directed toward economic restraint. Additional fiscal stimulus of any kind would enhance inflationary pressure directly by increasing the demand for scarce goods and services. Moreover, in the current climate of rising inflationary expectations, additional fiscal stimulus would be a signal to business and labor, to consumers and investors, that

the government is not doing its share to check inflation and that they should therefore base their future decisions on a long-lasting period of fast-rising prices. For this reason, Federal expenditures must be restrained. The impact of the deferrals and recissions must be assessed in the aggregate to determine the macroeconomic effects of this policy of budget restraint.

Full release of these highway funds would make $15.3 billion available to the states in 1975 alone. This would be larger than the total amounts advanced in any prior three year period. Although it is obvious that this entire amount could not be utilized in 1975, national highway construction in 1975 and 1976 would nevertheless be greatly accelerated. It is important to note that the inflationary effects of highway construction are actually measured by the bid prices for such work despite the natural lag of outlays arising out of highway obligations. Bid prices, which generally are determined quickly after obligations are available, are a leading indicator of events. A sudden, high increase in demand should not descend upon highway construction at a time when its price index has just skyrocketed 38 percent during the 12 months ending June 30. Over-stimulation of demand for materials such as certain steel and cement products at a time when their prices have experienced some of the highest inflation in the economy, and when spot supply shortages are occuring, is precisely the kind of activity which should be avoided. Comparable effects would be felt in related wages, equipment, and petroleum-based products used in highway construction. It can be reasonably assumed that a large number of additional projects in many local areas would require such large amounts of labor, material and supply resources that local inflationary pressures would be further stimulated. Accordingly, prudent management of existing Federal highway resources combined with a successful campaign against inflation on a national scale could trigger a significant reversal in these price indicies and allow future contracts to produce more work per dollar than under present circumstances.

B. Program Priorities and Management

While highway construction continues to remain a national priority (50% of obligations in DOT's 1975 budget even under the proposed deferral program level), its claim to a larger share of our budgetary resources ($4.6 billion in obligations in FY 1975) is less clear than in 1956 when construction of the Interstate System commenced. As of July 1, 1974, over 84% of the Interstate System was open to traffic. With the capital infrastructure of the finest highway system in the world largely in place, the rate of highway construction can proceed at a moderate rate without frustrating the legislative purposes expressed in the Federal-Aid Highway Acts.

In making appropriations for FY 1977, the Congress will for the first time be able to weigh the claims of highway construction against the claims of other essential programs. Outlays for highways in FY 1977, however, are a function of obligations incurred in 1975 and 1976. If

the total obligational authority for highways were released in 1975, this would cause outlays to approach $7.5 billion in that fiscal year. Clearly this is undesirable in light of both Administration and Congressional goals to control the level of the Federal budget.

The release of these funds would also result in substantial program management problems. It is anticipated that States would attempt to place these funds under contract as quickly as possible both to avoid a potential loss of funds through later Executive or Congressional recall actions and to satisfy project requests of local highway officials. Such release, as noted earlier, would result in severe strain on the resources of a specialized industry, geared to handle a relatively stable program level. Saturating contractors with work would increase bid prices, and in turn result in higher unit costs, leading to less highway construction per dollar of investment. Secondly, the release of these funds would create an immediate, relatively short term bulge in project volume which would overtax Federal, State and private resources. If resources were quickly shifted into highway construction, there would be not only substantial near-term social and economic dislocational costs in other sectors of the economy, but also potential longer term costs for relocating these resources (manpower and equipment) into other productive areas after this $10B, one time bulge has passed.

Deferral rather than rescission of so large a sum is being recommended as a result of the basic structure of the Federal-Aid Highway program. The program includes about ten separate authorizations. Each year funds for each authorization are apportioned to each State by statutory formula. Obligations are then incurred against these various authorizations by activity and by year. Over time, different States have had different priorities and spending rates and thus, the relative amounts available to each State for each activity differ significantly. As a result, rescission of authorizations would not uniformly impact all the States but rather would penalize the slow-spending states. While we believe that the program level should be substantially lower than that authorized and available, we do not believe that these reductions should be taken at the expense of some States and not others.

There is no provision in the Federal-Aid Highway Act, as amended (23 U.S.C. 101 et seq.), which mandates the rates at which highway funds will be made available to the States for obligation. On the contrary, the Congress has rejected several attempts to insert such mandatory language in the Act. For this reason it is the position of this Administration, and has been the position of Administrations since 1967, that the Executive has authority to control the rate of spending under the highway program so long as the purposes of the program are not frustrated. A number of States have brought suits in the Federal District Courts challenging the Administration's position. Two of these cases are pending in the United States Courts of Appeal. These courts, and probably later the Supreme Court, will be called upon to decide whether the Federal-Aid Highway Act, when construed in the light of the President's responsibilities for maintaining a stable economy, the duties of fiscal prudence imposed by such statutes as the Anti-deficiency Act and and the Budget and Accounting Act of 1921, and the President's powers under

Article II of the Constitution, requires that the States be permitted to use highway obligational authority at the maximum rates authorized by law. (One Court of Appeals decision, State Highway Commission of Missouri v. Volpe (479 F.2d 1099), has become final, but the foregoing issues were not presented by the record in that case).

Estimated Effects: This deferral is subsumed in the President's 1975 budget. If it were released, it is estimated that outlays would increase by $350 million in 1975, $1.6 billion in 1976, and $2.5 billion in 1977, over levels consistent with the program request of 1975 budget, reflecting anticipated delay in obligating these funds and the average 18-month lag between obligation and outlay. The deferral in effect delays the Federal-aid highway programs by 8-12 months. Since the States will eventually receive all apportioned funds in every program category (no apportioned Federal-aid funds for highways have ever permanently lapsed), Congressional allocations among programs and States are preserved.

Deferral No.: D75-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Sec. 1013 of P.L. 93-344

| | | |
|---|---|---|
| Agency Foreign Claims Settlement Commission | New budget authority (P.L. ) | $ |
| Bureau NA | Other budgetary resources | 11,592,000 |
| Appropriation Title & Symbol | Total Budgetary Resources | 11,592,000 |
| Payment of Vietnam Prisoners of War Claims<br>79X0104 | Amount to be deferred part of year | |
| | Amount to be deferred for entire year | 10,500,000 |

Justification:

Public Law 91-289, approved June 24, 1970, authorized a program for the payment of claims of American military and civilian prisoners of war held during the Vietnam conflict or their survivors and provides for the Foreign Claims Settlement Commission to adjudicate the claims and certify payment. A total of $16,565,000 was appropriated for that purpose during 1971, 1972, and 1973, to remain available until expended. The Commission has largely adjudicated and certified the claims of returned prisoners of war. However, the Commission does not certify claims for payment to survivors of servicemen missing in action in the Vietnam conflict until the appropriate military service determines the status of each serviceman missing in action and reports it to the Commission. Furthermore, by court order, the Secretaries of the respective services cannot make a final status determination until a hearing is held on each case and certain rights have been afforded to the next of kin. This procedure results in an extended process requiring additional time that will defer the Commission's receipt and adjudication of claims beyond June 30, 1975. Accordingly, of the $11,592,000 available for 1975, $1,092,000 has been apportioned for obligation in 1975 and $10,500,000 has been reserved. This deferral of 1975 budget authority is necessary to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)) and to provide for contingencies after 1975 (31 U.S.C. 665(c)(2)).

Estimated effects:

No savings result from the deferral, since no claims can be adjudicated or payments made until after status determinations are made by the military services.

[FR Doc.74-22221 Filed 9-20-74;12:00 p.m.]

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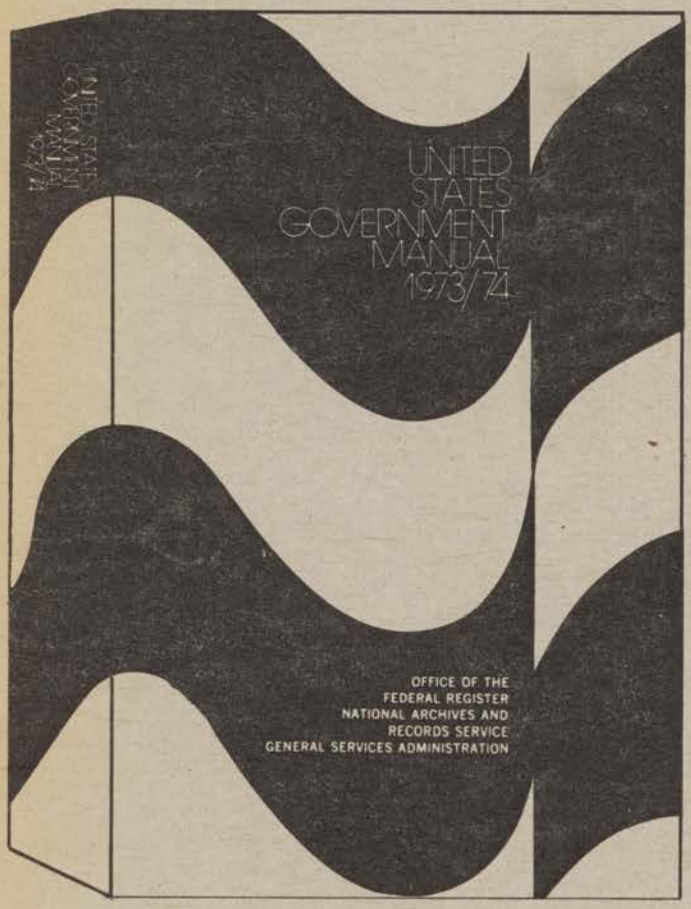


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