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rules and regulations

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

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

Title I—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES (PRIVACY REGULATIONS)

PART 415—BOARD FOR INTERNATIONAL BROADCASTING

Implementation

DECEMBER 23, 1975.

On page 40047 of the FEDERAL REGISTER dated August 29, 1975, there were published notices of proposed regulations for implementation by the Board for International Broadcasting of the Privacy Act of 1974 [1 CFR Part 415], and a listing of the Board's notices of record systems. Public comment was invited.

No public comment was received by the Board. The regulations are hereby adopted without change, as set forth below.

WALTER R. ROBERTS,
Executive Director.

PART 415—PRIVACY ACT IMPLEMENTATION

Sec.

415.1 Purpose and scope.
415.2 Definitions.
415.3 Procedures for requests pertaining to individual records in a record system.
415.4 Times, places, and requirements for the identification of the individual making a request.
415.5 Disclosure of requested information to the individual.
415.6 Request for correction or amendment to the record.
415.7 Agency review of request for correction or amendment of the record.
415.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
415.9 Disclosure of record to a person other than the individual to whom the record pertains.
415.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 415.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Board for International Broadcasting (hereafter known as the Board) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 415.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Board, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol; or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 415.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Special Assistant to the Executive Director of the Board to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Special Assistant to the Executive Director of the Board which states the individual's desire to review his or her record.

§ 415.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Special Assistant to the Executive Director of the Board pursuant to § 415.3 shall present the request at the Board offices, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Board's offices with a form of identification which will permit the Board to verify that the individual is the same individual as contained in the record requested.

§ 415.5 Disclosure of requested information to the individual.

Upon verification of identity the Board shall disclose to the individual the information contained in the record which pertains to that individual.

§ 415.6 Request for correction or amendment to the record.

The individual should submit a request to the Special Assistant to the Executive Director of the Board which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 415.4.

§ 415.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Special Assistant to the Executive Director of the Board will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Board for the individual to request a review of that refusal.

§ 415.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Special Assistant to the Executive Director of the Board to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director of the Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Board a concise statement setting forth the reasons for his or her disagreement with the refusal of the Board and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 415.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Board will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of

the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Board's notices of its systems of records.

§ 415.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

[FR Doc.75-35082 Filed 12-29-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11935]

FOCUS

Broker-Dealer Reports

The Securities and Exchange Commission today announced the adoption of the FOCUS Report, a financial and operational combined uniform single report under the Securities Exchange Act of 1934. The FOCUS Report replaces the information presently required by Form X-17A-5 [17 CFR 249.617], Form X-17A-10 [17 CFR 249.618][1], and Form X-17A-11 [17 CFR 249.621], which are the Commission's forms, the Joint Regulatory Report, Forms "M" and "Q," the income and expense reports, and various other financial and operational forms and reports required by self-regulatory organizations.

The Commission also announced the amendment of Rule 17a-4 [17 CFR 240.17a-4], Rule 17a-5 [17 CFR 240.17a-5], Rule 17a-10 [17 CFR 240.17a-10], Rule 17a-11 [17 CFR 240.17a-11], and Rule 17a-20 [17 CFR 240.17a-20], in order to further implement the adoption of the FOCUS Report and a streamlined system of financial and operational reporting for brokers and dealers. Rule 17a-4 [17 CFR 240.17a-4] is amended to require that brokers and dealers maintain, for a minimum period of 3 years, certain books and records required for the preparation of the FOCUS Report. Rule 17a-5 [17 CFR 240.17a-5] is amended to specify the preparation and filing requirements of the FOCUS Report including Parts I, II, and IIA of Form X-17A-5 [17 CFR 249.617] and the annual audit report. Rule 17a-10 is amended to shorten the time period within which Form X-17A-10 [17 CFR 249.618] must be filed. Form X-17A-10 [17 CFR 249.618] is substantially amended to conform to the format of the FOCUS Report and to reduce the amount of income and expense information required. This reduced information is effective for calendar year 1975. Rule 17a-11 [17 CFR 240.17a-11] is amended to require a broker or dealer subject to it to file Part II of Form X-17A-5 [17 CFR 249.617] plus supplementary schedules as required, in place of Form X-17A-11 [17 CFR 249.621]. In addition, those events which require reporting of material inadequacies have been revised, and the filing by the broker or dealer of corrective plans to remedy such inadequacies is required. Rule 17a-20 [17 CFR 240.17a-20] is amended to substantially reduce the information required by Form X-17A-20 [17 CFR 249.636], and to eliminate from the reporting requirements those brokers and dealers with less than 20 percent of gross revenue derived from brokerage commission transactions.

Each of said rules is also amended to conform to Section 15(a)(1) of the Securities Exchange Act of 1934, as amended. That Section now requires all brokers and dealers, whether or not they are members of a national securities exchange, to register with the Commission. Consequently the term "member of an exchange" has been deleted from the phrase "member of an exchange, broker or dealer," as such term is no longer necessary.

The Commission also announced the approval of certain plans submitted by various self-regulatory organizations pursuant to Rule 17a-5 [17 CFR 240.17a-5], Rule 17a-10 [17 CFR 240.17a-10] and Rule 17a-20 [17 CFR 240.17a-20]:

American Stock Exchange ("ASE")
Boston Stock Exchange ("BSE")
Chicago Board Options Exchange ("CBOE")
Midwest Stock Exchange ("MSE")
National Association of Securities Dealers ("NASD")
New York Stock Exchange ("NYSE")
Pacific Stock Exchange ("PSE")
PBW Stock Exchange ("PBW")

Due to the implementation of amended Rule 15c3-1 [17 CFR 240.15c3-1] on January 1, 1976, the financial and operational reports, and the surveillance systems of the Commission and the self-regulatory organizations will become obsolete as of that date. For this reason, the Commission has expedited the adoption of the FOCUS Report and related rule changes in order that the revised reporting system may be implemented concurrently with amended Rule 15c3-1 [17 CFR 240.15c3-1].

I. *Introduction.* Section 17(a)(1) of the Securities Exchange Act of 1934, as amended, provides that the Commission shall prescribe by rule the records to be kept and the reports to be made and disseminated by brokers and dealers. Section 17(e) of the Securities Exchange Act of 1934, as amended, requires every broker or dealer to file annually with the Commission a certified balance sheet and income statement, and such other information concerning its financial condition as the Commission may prescribe by rule, and authorizes the Commission to prescribe the form and content of such financial statements and the accounting standards to be followed in their preparation.

The creation of the SEC Advisory Committee on Broker-Dealer Reports and Registration Requirements was announced by the Commission in September 1972, marking the beginning of a program to review the reporting requirements imposed on brokers and dealers by rules of the Commission and the self-regulators. In December 1972 the Committee submitted its recommendations to the Commission in the "Advisory Committee's Study on Broker-Dealer Reports and Registration Requirements" (Stepanek Report"). The Stepanek Report concluded that there then existed unnecessary and duplicative reporting requirements resulting from lack of coordination by the various regulating entities.

The Commission subsequently established a Staff Task Force to determine whether the recommendations of the Committee could be implemented and if so, in what manner. The Staff Task Force delivered its report to the Commission substantially supporting the conclusions and recommendations of the Stepanek Report. The Commission thereafter formulated a program of implementation based upon the recommendations of the Stepanek Report as supported by the Staff Task Force. In its "Announcement of a Program of Implementation Regarding the 'SEC Advisory Committee Study on Broker-Dealer Reports and Registration Requirements' . . ." the Commission:

1. stated its intention to develop a key regulatory report[2] and sought public comments thereon; and

2. stated its intention to establish a Report Coordinating Group under the Federal Advisory Committee Act to advise the Commission on the consolidation and reduction of reporting requirements and to assist the Commission in the development of a key regulatory report.[3]

In May 1974 the Commission announced the membership of the Report Coordinating Group ("Group"), a federal advisory committee.[4] At its first meeting on June 3, 1974, the Group reviewed the Stepanek Report and decided to give the highest priority to developing recommendations regarding a uniform financial and operational report.[5]

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[1] Form X-17A-10 [17 CFR 249.618] is substantially in FOCUS Report format, with some modifications.

[2] The key regulatory report is denominated the FOCUS Report symbolizing a Financial and Operational Combined Uniform Single report.

[3] These two items are only part of a complete program described in Securities Exchange Act Release No. 10612, January 24, 1974, 39 FR 5204, February 11, 1974.

[4] The Report Coordinating Group was established in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix 1, 86 Stat. 770 (1972).

[5] The Group also concentrated its efforts on the development of uniform registration and record retention forms. Uniform registration forms for brokers and dealers were adopted by the Commission on May 16, 1975 (Securities Exchange Act Release No. 11424, 40 FR 30634, July 22, 1975). Subsequent to the submission of the Report Coordinating Group's First Annual Report, a Trading Forms Task Force has deliberated for several months and has recommended the elimination or consolidation of the 104 trading forms described in the First Annual Report. The Task Force now proposes 44 simplified and consolidated forms in their place.

An Assessment Forms Task Force working during the same period has made additional proposals for the further simplification of assessment procedures. For background and prior status of these two projects, see *First Annual Report of the Report Coordinating Group, June 16, 1975.*

On August 9, 1974 the Commission issued guidelines for a uniform financial and operational report. In accordance with these guidelines the Group reviewed the reports, forms and similar material required of brokers and dealers by the Commission, the self-regulatory organizations and others. The Group, with the dedicated assistance of staff persons from all sectors of the industry, developed a FOCUS Report Discussion Paper which was distributed on October 15, 1974.

Comments suggesting further simplification and changes in the items of the FOCUS Report were considered in the drafting of the FOCUS Report Revised Discussion Paper released on December 16, 1974.[6] The FOCUS Report Revised Discussion Paper set forth a three part reporting format of financial and operational data to be completed by certain firms at specified intervals.

Since the release of the FOCUS Report Revised Discussion Paper, the Group has held additional public meetings to further simplify the FOCUS Report and at the same time improve its effectiveness as a surveillance tool for the Commission and the self-regulators. The Group released its final recommendation for a FOCUS Report in its First Annual Report on June 16, 1975.[7] The FOCUS Report is the product of the efforts of the Group assisted in large part by the comments and suggestions of members of the industry, the self-regulatory organizations, the accounting profession and interested members of the public. The Commission, after considering the recommendations of the Report Coordinating Group and the comments thereon, believed that the adoption of a reporting system based upon and including the FOCUS Report, with some modifications to the program recommended, would provide an opportunity for uniform industry-wide regulation and would substantially reduce the reporting burdens on the securities industry without compromising the interest of the public and the regulators. In an effort to achieve that goal, on November 1, 1975 there was published in the FEDERAL REGISTER (40 FR 51060) a notice of proposed rulemaking with proposed amended Rule 17a-4 [17 CFR 240.17a-4], Rule 17a-5 [17 CFR 240.17a-5] and related Form X-17A-5 [17 CFR 249.617], Rule 17a-10 [17 CFR 240.17a-10] and related Form X-17A-10 [17 CFR 249.618], Rule 17a-11 [17 CFR 240.17a-11] and related Form X-17A-11 [17 CFR 249.621], and Rule 17a-20 [17 CFR 240.17a-20].

After careful consideration of the public comments submitted and further refinement to the reporting structure, the Commission adopts the FOCUS Report and related rules and forms as set forth herein recognizing that while the reporting system is efficient in theory, and the form satisfactory in substance, certain modifications may subsequently be necessary in order to achieve a smoother practical application. It is the Commission's view that the areas requiring additional refinement will become apparent after the self-regulators and the brokers and dealers have had several months experience with the FOCUS reporting structure; therefore, comments are requested on or before March 31, 1976, suggesting amendments to the FOCUS Report on June 30, 1976. The Commission also requests that the Report Coordinating Group included in its final report to the Commission those amendments it considers necessary. The Commission thereafter intends to review the FOCUS Report at the beginning of each calendar year, in cooperation with the self-regulators and with the advice of the Report Coordinating Group, in order to continue modifying and updating the financial and operational reporting systems to keep pace with the changing securities industry.

II. *Amendment of Rule 17a-4 [17 CFR 240.17a-4].* Rule 17a-4 [17 CFR 240.17a-4] is amended by adding subparagraph (b)(8) to require every broker or dealer who is required to file Part II or Part IIA of Form X17A-5 [17 CFR 249.617] to make and keep certain additional books and records. Such a requirement should not constitute a significant additional burden, inasmuch as said records are now prepared during the course of operation of the broker's or dealer's business. These new schedules replace a number of schedules in current Form X-17A-5 [17 CFR 249.617] and will provide detailed information required for a proper analysis and review of the annual audit report.

III. *Amendment of Rule 17a-5 [17 CFR 240.17a-5] and Related Form X-17A-5 [17 CFR 249.617]*[8]—A. *Reports to be Filed by Brokers and Dealers.* Rule 17a-5(a)(2) [17 CFR 240.17a-5(a)(2)] is amended to prescribe which firms must file the different parts of Form X-17A-5 [17 CFR 249.617]. Clearing or carrying firms which have not received notice that they exceed certain safe parameters of financial and operational condition must file Part I monthly and Part II on calendar quarters.[9] Firms which do not carry or clear customer accounts must file Part IIA on calendar quarters. Firms which receive notice of exceeding certain parameters of financial and operational condition must file Part II monthly. Part IIA will be filed quarterly in lieu of Part II by small brokers and dealers, firms not clearing and not carrying customer accounts, and firms conducting a limited type of business. Such of these firms which exceed parameters set by the self-regulators must file Part IIA monthly. In addition, every broker or dealer required to file an annual audit report under paragraph (d) must file Part II or IIA, as applicable, as of the date selected for the annual audit report if such date does not coincide with a calendar quarter.

Rule 17a-5 [17 CFR 240.17a-5]

Current paragraph	Proposed paragraph	Adopted paragraph
	17a-5(a)	17a-5(a).
(a)	17a-5(b)	17a-5(d).
(b)	17a-5(c)	17a-5(e).
(c)	17a-5(d)	17a-5(k).
(d)	17a-5(e)	17a-5(l).
(e)	17a-5(f)	17a-5(i).
(f)	17a-5(g)	17a-5(f).
	17a-5(h)	17a-5(g).
	17a-5(i)	17a-5(h).
(g), (h), and (i)	17a-5(j)	17a-5(i).
	17a-5(k)	17a-5(j).
(j)	17a-5(l)	17a-5(b).
(k)		
(l)	17a-5	
(m), (n), and (o)	17a-5(m)	17a-5(c). 17a-5(m). 17a-5(n).

As proposed for comment, Rule 17a-5(a) [17 CFR 240.17a-5(a)] did not specify the number of days with in which the monthly and quarterly reports must be filed. The Commission requested comment upon this issue, and after consideration of those comments submitted has determined that Part I will be filed within 10 business days of the end of each month, and Parts II and IIA will be filed within 17 business days of the end of each month.

Subparagraph (a)(4) permits the broker or dealer to satisfy the filing requirements under subparagraph (a)(2) by complying with filing requirements established by a plan submitted to the Commission by the appropriate national securities association. Pursuant to the plan, the exchange or association is required to transmit to the Commission a copy of the applicable parts of Form X-17A-5 [17 CFR 249.617] as to each member participating in the plan. The plan must also set forth the time limitations within which the various parts of Form X-17A-5 [17 CFR 249.617] must be filed.

Requests for extension of time or exemption from any of the requirements of paragraph (a) will be considered pursuant to paragraph (1).

Report to be Filed Upon Termination of Membership. Paragraph (j) is renumbered (b) and requires that any broker or dealer who ceases to be a member in good standing of a national securities exchange file with the Commission, no later than two days after the termination, Part II of Form X-17A-5 [17 CFR 249.617] as of the termination. In addition, a national securities exchange which acts to terminate the membership of a broker or dealer or learns of any such action is required to notify the Commission of such action and notify the broker or dealer of its reporting under this paragraph.

[6] Securities Exchange Act Release No. 11140.
[7] Securities Exchange Act Release No. 11499.
[8] The following is a comparison of the current, proposed, and adopted paragraphs:
[9] This reporting sequnce enables the Commission to fulfill its Congressional mandate to collect and report on economic data concerning the securities industry, while simultaneously streamlining the financial and operational reporting required by brokers and dealers. It allows almost the complete integration of the current economic data reporting requirements of Rule 17a-10 [17 CFR 240.17a-10] and Rule 17a-20 [17 CFR 240.17a-20].

Under Section 23 of the Securities Exchange Act of 1934, as amended by the Securities Act Amendments of 1975, the Commission has a duty to make such reports to Congress. The information necessary to prepare such reports would be derived from the calendar quarter filings of Form X-18A-5 [17 CFR 249.617] and the annual filing of Form X-17A-10 [17 CFR 249.618].

Financial Statements to be Furnished to Customers. Paragraph (c) combines former paragraphs (m), (n) and (o) and prescribes the form and content of statements to be furnished to customers by all brokers and dealers required to file an annual audit report, with the exception of certain brokers or dealers with limited activities as enumerated in subparagraph (c)(1). The statements, as set forth in subparagraph (c)(2), include a balance sheet, a footnote indicating the broker's or dealer's actual net capital and its required net capital, a notice that a copy of any material inadequacies commented upon by the independent public accountant in connection with the annual audit report is currently available for the customer's inspection at the Commission's principal office in Washington, D.C. and the Commission's regional office for the region in which the broker or dealer has its principal place of business, and a notice indicating that the Statement of Financial Condition of the most recent annual audit report of the broker or dealer is similarly available for inspection. After a re-evaluation of the length and complexity of the statements which must be furnished to customers, the Commission has determined that the period of time within which these statements must be furnished shall be 45 days.

B. *Accountants' Reports—Annual Audit Report.* The Commission also requires that brokers and dealers file an annual audit report on a fiscal or calendar year basis.[10] Rule 17a-5(d)(1) [17 CFR 240.17a-5(d)(1)] requires the following financial data to be included in the annual audit report:

Financial Statements:

Statement of Financial Condition;
Statement of Income (Loss);
Statement of Changes in Financial Position;
Statement of Changes in Stockholders' Equity or Partners' or Sole Proprietor's Capital;
Statement of Changes in Liabilities Subordinated to Claims of General Creditors;

Schedules:

Computation of Net Capital Pursuant to Rule 15c3-1 [17 CFR 240.15c3-1];
Computation for Determination of Reserve Requirements Pursuant to Rule 15c3-3 [17 CFR 240.15c3-3];
Information Relating to the Possession or Control Requirements Under Rule 15c3-3 [17 CFR 240.15c3-3]; and
A Reconciliation Pursuant to Rule 17a-5(d)(4) [17 CFR 240.17a-5(d)(4)].

All of the financial statements and schedules are to be filed on a public basis except those which are bound separately as provided in paragraph (e)(3).

The audited financial statements will be filed at the principal office of the Commission in Washington, D.C., the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and at the principal office of the designated examining authority for said broker or dealer no later than sixty days after the date selected for the annual audited financial statements. The computations contained in the corresponding filing of Part II or Part IIA pursuant to Rules 15c3-1 [17 CFR 240.15c3-1] and 15c3-3 [17 CFR 240.15c3-3], must be reconciled in a report filed pursuant to amended Rule 17a-5(d)(4) [17 CFR 240.17a-5(d)(4)], if such reports differ materially from the computations contained in the audit report.

The term "fiscal year" is defined as the broker's or dealer's fiscal year for reporting purposes. For purposes of defining a time period such as fiscal or calendar quarter, the last business day of such period would be acceptable. The date of the audit may be at any point within the calendar year; however, if such date does not coincide with the close of a calendar quarter, the broker or dealer must file an additional Form X-17A-5 [17 CFR 249.617], Part II or IIA as prescribed in paragraph (a), as of the date of the annual audit. This fifth filing allows the integration of the annual audit report into the surveillance programs of the Commission and the self-regulators.

Section 17(e) of the Securities Exchange Act of 1934 requires all brokers and dealers, including introducing firms, to file an annual audited report, including an income statement. The Commission requested comments on the feasibility of requiring floor members to file an annual audited report, and after consideration of those comments submitted has determined that the adequacy of the self-regulators' surveillance programs is such that the annual audited report will not be necessary.

Audit Objectives & Procedures. Rule 17a-5 ([17 CFR 240.17a-5] also prescribes the audit objectives to be used in the preparation of the broker's or dealer's audited financial statements.[11] Paragraph (g) requires the annual audit to be made in accordance with generally accepted auditing standards. The audit is to be conducted in such a manner as to provide the accountant with the financial statements of the broker or dealer as of the date of the examination. The audit should be designed in such a manner as to provide the accountant with reasonable assurance of the discovery of any material inadequacies in the accounting system, the internal accounting control, procedures for safeguarding securities or the procedures followed in complying with Rule 17a-13 [17 CFR 240.17a-13], which are existing at the date of the audit. If during the course of the audit, inadequacies which have occurred during the period since the date of the last audit are determined to have existed either through preliminary work or through any other procedure conducted in connection with the annual audit such inadequacies must be reported as part of the annual audit report.

Paragraph (h) prescribes the extent and timing of procedures to be followed in the annual audit and permits the accountant to exercise discretion in the area of the extent and timing of such procedures.[12] In addition, the accountant has a responsibility to notify the chief financial officer of the broker or dealer of any material inadequacies discovered in the course of the audit or interim work. If the broker or dealer fails to notify the Commission, the accountant himself must do so.

A determination of a material inadequacy may, in many instances, require completed audit procedures in a particular area, appropriate review at the decision making level by management and the independent accountant, and possible consultation with counsel. While it is expected that a determination in this context involves a contemplative process, the length and complexity of the deliberations should depend on the circumstances and be completed in the shortest time possible.

Accountant's Report on Material Inadequacies. Paragraph (j) requires that the broker or dealer file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist at the audit date and any corrective action taken or proposed by the broker or dealer in regard thereto.

Nature and Form of Audit Reports. Paragraph (b), which prescribes the nature and form of reports which must be filed by the broker or dealer, is renumbered (e). Subparagraph (4)(iii)(b) thereof requires that amounts reported in the Annual General Assessment Reconciliation (Form SIPC-7) be compared with amounts reflected in Form X-17A-5 [17 CFR 249.617] for the fiscal year beginning with fiscal year 1976, rather than the present comparison with the amounts reflected in Form X-17A-10 [17 CFR 249.618]. As proposed for comment, this paragraph did not allow for a transition period between the Form SIPC-7/Form X-17A-10 comparison and the Form SIPC-7/Form X-17A-5 comparison. The Commission has determined that a smoother adjustment will result if Form SIPC-7 is compared with Form X-17A-10 [17 CFR 249.618] for calendar year 1975 and with Form X-17A-5 [17 CFR 249.617] for fiscal year 1976 and thereafter.

Qualification of Accountant. Subparagraph (2) has been added to paragraph (f) which requires every broker or dealer to file with the Commission as of December tenth of each year a statement indicating the existence of an agreement with an independent public accountant covering a contractual commitment to conduct the broker's or dealer's annual audit pursuant to Rule 17a-15 [17 CFR 240.17a-5] for that year.

[10] This is in accordance with Section 14 of the Securities Acts Amendments of 1975 which amended Section 17(e)(1)(A) of the Securities Exchange Act of 1934 to require that the audited financial statements be submitted on a fiscal or calendar year basis.

[11] This is in accordance with Section 17(e)(2) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975.

[12] It is expected that the American Institute of Certified Public Accountants will promulgate guidelines and educational materials concerning audit procedures in this area.

In light of the fact that the date of filing this statement for calendar year 1976 (December 10, 1975) has already passed, the statements which would have been filed on that date shall be filed no later than February 10, 1976. Such letter may be of a permanent nature, i.e., effective until withdrawn, or a new letter may be filed each year.

As proposed for comment, paragraph (f) did not offer the option of filing a permanent letter. After considering public comment, the Commission has determined that this option will further reduce the reporting requirements of brokers and dealers. In addition, new subparagraph (f)(3) requires that the accountant be independent in accordance with Rules 2-01(b) and (c) of Regulation S-X [17 CFR 210.2-01(b) and (c)].

Technical Requirements of Accountant's Report. Paragraph (i) combines former paragraphs (g), (h) and (i) in setting forth the technical requirements of the accountant's report, the representations and opinions to be expressed by the accountant with respect to the annual audit, and the manner in which exceptions noted by the accountant are to be stated. Paragraph (i) also notes that the accountant would be required to perform additional audit procedures if such procedures are necessary to accomplish the audit objectives.

Exemptions and Extensions of Time. Paragraph (d) of the rule has been redesignated paragraph (1) and requires the broker or dealer to include certain representations in its application for an extension of time for filing the annual audit report. The application must be received by the Commission's principal office in Washington, D.C., and the appropriate regional office of the Commission prior to the time that the report is normally due pursuant to paragraph (d). The application is not deemed granted by inaction on the part of the Commission, as is now provided for by the last sentence of the paragraph; accordingly, that sentence has been deleted from paragraph (1).

As proposed for comment, Rule 17a-5 [17 CFR 240.17a-5] did not set forth procedures for granting extensions of time for filing the annual audit report. After reviewing the comments suggesting such procedures, the Commission has determined that the extensions shall be granted or denied by the appropriate regional office within 10 days after receipt of the request, unless the regional office indicates that more time is required to properly analyze the request.

As proposed for comment, Rule 17a-5 [17 CFR 240.17a-5] did not provide an exemption for life insurance companies registered as brokers or dealers for the purpose of selling variable contracts and exempt from Rule 15c3-1 [17 CFR 240.-15c3-1] by virtue of a previous application setting forth already existing higher permanent capital standards. The Commission requested comments on whether such life insurance companies should be subject to the requirements of the FOCUS Report, and after consideration of the comments submitted has determined that those life insurance companies which are registered as brokers and dealers engaging exclusively in the sale of variable contracts, and which are exempt from Rule 15c3-1 [17 CFR 240.15c3-1], shall be exempt from the requirements of Rule 17a-5 [17 CFR 240.-17a-5]. Such companies will file an annual report on Part III of Form X-17A-10 [17 CFR 249.618].

Notification of Change of Fiscal Year. Proposed Rule 17a-5 [17 CFR 240.17a-5] did not set forth notification procedures pursuant to a broker's or dealer's change of fiscal year. The Commission has determined that such notice is necessary and has defined the procedures in paragraph (m). The notice will be filed with the Commission and the designated examining authority and will explain the reasons for the change and state whether or not the change will result in a delayed filing of the annual audit report. If the audit report will be delayed, the broker or dealer must include the representations required by subparagraph (a)(1) of paragraph (1).

C. *Structure of the FOCUS Report (Form X-17A-5 [17 CFR 240.617]).* The statements and schedules contained in the FOCUS Report replace present Form X-17A-5 [17 CFR 249.617], but the designation "Form X-17A-5" is retained. Form X-17A-5 [17 CFR 249.617] is divided into two parts with additional supplementary schedules. Part I is a summary report containing key financial and operational information consisting of core line items for all brokers and dealers and supplementary items for small brokers and dealers. These line items will provide regulators with timely information needed for the continued viability of the present day early warning system. This part is designed so that the trend for a full year in any of the line items is shown on a horizontal line on the report.

Nearly all of the information in Part I is presently required to be generated and maintained by rules of the Commission, national securities associations and national securities exchanges. Accordingly, Part I will replace a number of forms currently used by members of the securities industry. Based upon plans of the various self-regulators filed with the Commission and approved today, Part I will replace the monthly reports that the various self-regulators currently require of firms which do not exceed certain safe parameters of financial and operational condition.

Part II of the Form X-17A-5 [17 CFR 249.617] is a general purpose financial and operational report. It is designed to accomplish several objectives: attain simplicity and uniformity, obtain essential regulatory information, and develop financial statements in a format consistent with generally accepted accounting principles. The instructions to Part II set forth detailed definitions. Such definitions are intended as a guide for the correct completion of Parts II and IIA and apply only to those Parts. Part II contains the following financial statements and schedules:

Financial Statements:

Statement of Financial Condition;
Statement of Income (Loss);
Statement of Changes in Stockholders' Equity or Partners' or Sole Proprietor's Capital; and
Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

Schedules:

Information for Possession or Control Requirements Under Rule 75c3-1 [17 CFR 240.15c3-1];
Computation of Net CCapital Under Rule 15c3-1 [17 CFR 240.15c3-1];
Computation for Determination of Reserve Requirements Exhibit A of Rule 15c3-3 [17 CFR 240.15c3-3];
Total Capital and Subordinated Capital Maturing or Proposed to be Withdrawn Within the Next Six Months and Details Thereof; and
Financial and Operational Data.

Part IIA is an abbreviated version of Part II. It includes a Statement of Financial Condition, a Computation of Net Capital Under Rule 15c3-1 [17 CFR 240.15c3-1]; a Statement of Income (Loss), and a Schedule of Details of Total Capital and Subordinated Capital Maturing or Proposed to be Withdrawn Within the Next Six Months.

As proposed for comment, Parts II and IIA did not include a Schedule of Information for Possession or Control Requirements Under Rule 15c3-3 [17 CFR 240.15c3-3]. After consideration of the public comments and a re-evaluation of the importance of this information, the Commission has determined that such information shall be required quarterly.

Based upon plans of the various self-regulators filed with the Commission and approved today, Part II and Part IIA will replace reports currently required on a monthly and quarterly basis by various self-regulators.

Copies of amended Form X-17A-5 [17 CFR 249.617] have been filed with the Office of the Federal Register and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

IV. *Amendment of Rule 17a-10 [17 CFR 240.17a-10] and Related Form X-17A-10 [17 CFR 249.618].* In response to comments received from members of the public and regulatory authorities a number of changes have been made in Rule 17a-10 [17 CFR 240.17a-10] and related Form X-17A-10 [17 CFR 249.618.] In the original proposal, brokers and dealers with certain exceptions were required to file such reports 45 days after the end of the calendar year. In Rule 17a-10 [17 CFR 240.17a-10], as adopted, brokers and dealers will be given 60 days after the end of the calendar year in which to file Form X-17A-10 [17 CFR 249.618] for calendar year 1975, in order to allow brokers and dealers to become familiar with the revised form.

Proposed Form X-17A-10 [17 CFR 249.618] consisted of two parts. In place of a separate introduction to each part of the form, one uniform introduction for all parts of the form has been developed

in order to simplify the form and to enhance computerization of the data. The number of parts to the form have been expanded from two to three. Part III of Form X-17A-10 [17 CFR 249.618] is to be filed by insurance companies which are registered as brokers and dealers for the purpose of selling variable annuities and are exempted from Rule 15c3-1 [17 CFR 240.15c3-1]. Several items were added to the revenue and expense statements of Part I and Part II of Form X-17A-10 [17 CFR 249.618] in order to be consistent with generally accepted accounting principals and a number of technical changes were made in order to improve the quality of the information collected.

Rule 17a-10 [17 CFR 240.17a-10] and related Gorm X-17A-10 [17 CFR 249.-618] will be amended, beginning with calendar year 1975, so as to eliminate certain information no longer considered essential, to confrom to the format of the FOCUS Report and to reduce the reporting burden on brokers and dealers. For the first time, the financial and operational data required for surveillance purposes and the information required for economic analysis will be integrated into a single reporting system. Rule 17a-10 [17 CFR 240.17a-10] will be amended to shorten the time period from 120 days to 45 days within which revised Form X-17A-10 [17 CFR 249.618] must be filed. The extension of time after the close of the calendar year will be reduced from 150 days to 105 days. The Commission proposes these changes in view of the reduced amount of information required by revised Form X-17A-10 [17 CFR 249.-618]. In addition, shortening the filing period would result in more timely information being provided to the Commission.

Adopted Form X-17A-10 [17 CFR 249.-618] consists of an Introduction and three parts with additional schedules, the schedules to be filed only by certain large brokers and dealers. The Introduction will be filed by all brokers and dealers. Part I of Form X-17A-10 [17 CFR 249.-618] will be filed by those brokers and dealers with annual gross revenue related to the securities business of less than $500,000, approximately 83 percent of all brokers and dealers. Part II of Form X-17A-10 [17 CFR 249.618] will be filed by all brokers and dealers with annual gross revenue related to the securities business of $500,000 or more. Subsidiary schedules requesting additional information will be filed only by those brokers and dealers with annual gross revenue related to the securities business of ten million dollars or more during the calendar year. Part III of Form X-17A-10 [17 CFR 249.618] will be filed by insurance companies which are registered as brokers and dealers solely for the purpose of selling variable annuities and which are exempted from Rule 15c3-1 [17 CFR 240.15c3-1].

This is the first major revision in Form X-17A-10 [17 CFR 249.618] since the form became mandatory for calendar year 1969. The purpose Rule 17a-10 [17 CFR 240.17a-10] and the related form is to provide the Commission with comprehensive financial data on a comparable basis for all segments of the broker-dealer industry. The Commission is required to carry out broad and comprehensive regulatory responsibilities as mandated by the Securities Acts Amendments of 1975. As a result of the introduction of competitive commission rates and the development of a national market system, and because of significant developments impacting the economics of the securities industry, the need for timely and comparable data regarding various segments of the industry continues to be essential.

Copies of amended Form X-17A-10 [17 CFR 249.618] have been filed with the Office of the Federal Register and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

V. *Amendment of Rule 17a-11 [17 CFR 240.17a-11] and Revocation of Form X-17A-11 [17 CFR 249.621].* Rule 17a-11 [17 CFR 240.17a-11] is revised to conform to the new net capital rule by the addition of subparagraph (b)(2) which applies to the alternative method of capital computation. Subparagraph (b)(2) is revised to clarify that a broker or dealer must file a report at the end of the month if a capital computation made at any time during the month indicates that his total net capital is below the minimum requirement. The report to be filed is Part II of Form X-17A-5 [17 CFR 249-617] plus any additional statements which may be required, thus eliminating the need for Form X-17A-11 [17 CFR 249.621].

New paragraph (b) requires any broker or dealer who discovers or who receives notice of a material inadequacy pursuant to paragraph ((h)(2) of Rule 17a-5 [17 CFR 240.17a-5] to give telegraphic notice to the Commission and file a corrective plan within forty-eight hours thereafter.

As proposed for comment, paragraph (d) of Rule 17a-11 [17 CFR 240.17a-11] required the broker or dealer to give telegraphic notice only when the independent public accountant has notified the broker or dealer of a material inadequacy. The Commission has determined that a broker or dealer who himself discovers a material inadequacy should also give telegraphic notice pursuant to paragraph (f), and paragraph (d) is amended accordingly.

In addition, Rule 17a-11 [17 CFR 240.17a-11] is amended to require that notice and reports given thereunder shall also be given to the Commodity Futures Trading Commission if such broker or dealer is a member of that Commission.

VI. *Amendment of Rule 17a-20 [17 CFR 240.17a-20] and Related Form X-17A-20 [17 CFR 249.636].* Rule 17a-20 [17 CFR 240.17a-20], which was adopted as part of the Commission's program to monitor the impact of competitive commission rates, is amended to reduce the frequency of filing. The Commission has determined that the program's effectiveness will not be decreased by requiring quarterly rather than monthly filing by all brokers and dealers subject to Rule 17a-20 [17 CFR 240.17a-20].

Paragraph (a) is amended to eliminate from the reporting system certain brokers and dealers who do not derive at least 20 percent of their revenues from securities commissions. Certain technical changes have also been made in order to coordinate the filing requirements with revised Rule 17a-10 [17 CFR 240.17a-10].

As proposed for comment, Rule 17a-20 [17 CFR 240.17a-20] required quarterly filing of current Form X-17A-20 [17 CFR 249.636]. In an effort to further reduce the reporting requirements of brokers and dealers, the Commission has determined that the information required to be reported by Form X-17A-20 [17 CFR 249.636] may be substantially reduced with no detriment to its utility as a monitoring mechanism.

Copies of amended Form X-17A-20 [17 CFR 249.636] have been filed with the Office of the Federal Register and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

VII. *Approval of Plans Filed Pursuant to Paragraph (a)(4) of Rule 17a-5 [17 CFR 240.17a-5], Paragraph (b) of Rule 17a-10 [17 CFR 240.17a-10], and Paragraph (a)(3) of Rule 17a-20 [17 CFR 240.17a-20].—A. Rule 17a-5 [17 CFR 240.17a-5].* Eight self-regulatory organization have filed plans pursuant to paragraph (a)(4) of Rule 17a-5 [17 CFR 240.17a-5], which would allow brokers or dealers who are members of an exchange or association filing an appropriate plan declared effective by the Commission to dispense with a separate filing of the FOCUS Report to the Commission. The ASE, BSE, CBOE, MSE, NASD, NYSE, PSE, and PBW have agreed to collect directly from their members the information required by the rule thereby eliminating for their member firms a direct filing requirement with the Commission.

The plans contain the following general elements. Part I of the FOCUS Report is to be filed monthly with the designated examinating authority by all clearing or carrying firms no later than the tenth business day after the end of the month.[23]

Part II is to be filed each calendar quarter, by clearing or carrying firms, with the designated examining authority no later than the seventeenth business day after the end of the instant

[23] Introducing firms which are designated members of the NASD would file the Part I monthly for an indefinite period pursuant to the accelerated reporting provisions of paragraph (a)(2)(iv) of Rule 17a-5 [17 CFR 240.17a-5]. NYSE designated members would not file the Part I in months in which the Part II is being filed. Pursuant to paragraph (a)(2)(iv) of Rule 17a-5 [17 CFR 240.17a-5]. PSE designated firms which clear or carry the accounts of other broker-dealers will file Part I monthly for a phase-in period of 3 months with further evaluation of a continuing need to be made at the conclusion of that period.

quarter.[14] A fifth Part II filing would be submitted by the broker or dealer in connection with the annual audit no later than the seventeenth business day after the end of the fiscal or calendar year audit date when such date is other than on a calendar quarter. The plans for the Part IIA are identical to those for the Part II except that the Part IIA will be filed by firms which do not clear nor carry customer accounts.[15]

All plans state that accelerated reporting will only be required sparingly when circumstances so dictate in light of the goal of reduced reporting.[16] In addition all such plans (except for the NASD) have, pursuant to paragraph (1)(3) of Rule 17a–5 [17 CFR 240.17a–5], requested conditional exemptions from the FOCUS Report for certain individual members, floor traders, floor brokers and specialists.

The Commission has reviewed the procedures and provisions of the plans including the requests for conditional exemption for certain member firms and, pursuant to paragraph (a)(4) of Rule 17a–5 [17 CFR 240.17a–5], having due regard for the public interest and the protection of investors and the fulfillment of the Commission's functions under the provisions of the Securities Exchange Act of 1934, declares the plans to be effective as of January 1, 1976, the proposed effective date of Rule 17a–5 [17 CFR 240.17a–5] as amended.

B. *Rule 17a–10 [17 CFR 240.17a–10]*. Eight self-regulatory organizations have filed modifications to existing plans or have for the first time filed plans pursuant to paragraph (b) of Rule 17a–10 [17 CFR 240.17a–10].[17] Paragraph (b) of Rule 17a–10 [17 CFR 240.17a–10] allows brokers or dealers which are members of an exchange or association which files an appropriate plan declared effective by the Commission to dispense with a separate filing of Form X–17A–10 [17 CFR 249.618] to the Commission. The modification of existing Rule 17a–10 [17 CFR 240.17a–10] plans is due to the amendments in Rule 17a–10 [17 CFR 240.17a–10] and related Form X–17A–10 [17 CFR 240.618] adopted hereinabove, which will require the plans to conform with those amendments.

Under the plans, member firms will be required to file the Form X–17A–10 [17 CFR 249.618] by the new date of 60 days after the close of the calendar year 1975 and 45 days after the close of the calendar year for each calendar year thereafter.[18] All NYSE member firms will file directly with the NYSE; all NASD member firms (other than NYSE member firms) with the NASD; and all solo member firms of regional exchanges with their respective exchanges.

The Commission has reviewed the procedures and provisions of the plans and modifications to existing plans and pursuant to paragraph (b) of Rule 17a–10 [17 CFR 240.17a–10], having due regard for the fulfillment of the Commission's functions under the provisions of the Securities Exchange Act of 1934, declares the plans and modifications to existing plans to be effective as of January 1, 1976, the proposed effective date of the amendments to Rule 17a–10] and related Form X–17A–10 [17 CFR 249.618].

C. *Rule 17a–20 [17 CFR 240.17a–20]*. The proposed modifications to Rule 17a–20 [17 CFR 240.17a–20] and related Form X–17A–20 [17 CFR 249.636] would reduce the frequency of filing as well as the line item detail of the form. All firms subject to the rule would now report quarterly rather than monthly and reporting would be eliminated for brokers or dealers who do not derive at least 20 percent of their revenues from securities commissions.

The Commission has declared effective plans submitted by the NASD and NYSE pursuant to paragraph (a)(3) of Rule 17a–20 [17 CFR 240.17a–20].[19] Due to the amendments to the rule and form described hereinabove, the NASD and NYSE have submitted modifications to their Rule 17a–20 [17 CFR 240.17a–20] plans which incorporate those amendments. NASD member firms subject to the rule would continue to file a separate Form X–17A–20 [17 CFR 249.636]. NYSE member firms will not complete a separate Form X–17A–20 [17 CFR 249.636], but will file a modified Statement of Income (Loss) as part of their quarterly Part II or Part IIA FOCUS Report submission.[20]

The Commission has reviewed the procedures and provisions of the proposed modifications to the plans and, pursuant to paragraph (a)(3) of Rule 17a–20 [17 CFR 240.17a–20], having due regard for the fulfillment of the Commission's functions under the provisions of the Securities Exchange Act of 1934, declares the modifications to the plans to be effective as of the effective date of the amendments to Rule 17a–20 [17 CFR [240.17a–20] and related Form X–17A–20 [17 CFR 249.636].

VIII. *Delegation of Authority*. Pursuant to subparagraph (1)(3) of Rule 17a–5 [17 CFR 240.17a–5], the Commission has the power to exempt a broker or dealer, unconditionally or on specified terms and conditions, from all or part of the requirements of that rule. The Commission has amended Rule 30–3(a)(5) of its Rules of General Organization [17 CFR 200.30–3(a)(5)] to delegate to the Director of the Division of Market Regulation and to the Associate Director and Assistant Director of the Office of Broker-Dealer Compliance and Financial Responsibility, the authority to grant exemptions pursuant to Rule 17a–5(1)(3) [17 CFR 240.17a–5(1)(3)].

The FOCUS Report and Amendments to Rule 17a–4, [17 CFR 240.17a–4], Rule 17a–5 [17 CFR 240.17a–5] and related Form X–17A–5 [17 CFR 249.617], Rule 17a–10 [17 CFR 240.17a–10] and related Form X17A–10 [17 CFR 249.618], Rule 17a–11 [17 CFR 240.17a–11] and related Form X17A–11 [17 CFR 249.621], and Rule 17a–20 [17 CFR 240.17a–20] and related Form X–17A–20 [17 CFR 249.6361] are effective January 1, 1976. The existing reporting systems of the Commission and of the self-regulatory organizations become obsolete as of January 1, 1976, by virtue of the implementation of amended Rule 15c3–1 [17 CFR 240.15c3–1]; therefore it is essential that the FOCUS Report and the accompanying rule and form amendments be adopted as of that date. As the modifications set forth herein do not substantially alter the rules and forms as proposed, or involve rules of agency organization, procedure or practice, and in light of the fact that the public interest and protection of investors require that effective surveillance and reporting systems be in place as of January 1, 1976, the Commission finds for good cause in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(A) and (B)), that notice and public procedure are unnecessary as a prerequisite to the adoption of any previously unpublished portions of the FOCUS Report and related rule and form amendments. Further, in order to assure that adequate surveillance and financial reporting systems will continually be in effect, the Commission, pursuant to Section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), finds that there is good cause to declare, and does declare, the adopted amendments to Rule 17a–4 [17 CFR 240.17a–4], Rule 17a–5 [17 CFR 240.17a–5] and related Form X–17A–5 [17 CFR 249.617], Rule 17a–10 [17 CFR 240.17a–10] and related Form X–17A–10 [17 CFR 249.618], Rule 17a–11 [17 CFR 240.17a–11] and related Form X–17A–11 [17 CFR 249.621], and Rule 17a–20 [17 CFR 240.17a–20] and related Form X–17A–20 [17 CFR 249.636] to be effective on January 1, 1976.

IX. *Competitive Considerations*. The Commission has determined that the FOCUS Report and accompanying rule and form amendments impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act and are not inconsistent with the public interest or the protection of investors. This determination is based on the reason that the adopted amendments

[14] PSE members which file the quarterly Part will accompany that filing with their workpapers on proprietary position data for the phase-in period with a review of the continuing need to be made at the conclusion of that period. ASE designated firms will file Part II of January, 1976 as a phase-in period before moving to the general reporting pattern.

[15] Pursuant to paragraph (a)(2)(iv) of Rule 17a–5 [17 CFR 240.17a–5], NYSE designated firms which introduce accounts but have subsidiaries required to consolidated in accordance with Rule 15c3–1 [17 CFR 240.15c3–1] will indefinitely file the quarterly Part II and PSE designated firms which clear or carry accounts for other broker-dealers will file Part II for a first quarter phase-in period with a review of the continuing need to be made at that time.

[16] *See* notes 14 and 15 *supra* for certain instances where the acceleration power is being invoked.

[17] The ASE, BSE, CBOE, MSE, NASD, NYSE, PSE and PBW.

[18] The NASD plan covers the calendar year 1975 only.

[19] Securities Exchange Act Release No. 11395, May 2, 1975, 40 FR 20073, May 8, 1975.

[20] All other firms subject to the rule would file directly with the Commission. These would constitute less than 9 firms.

to the rules and forms lessen any existing burden on competition by reducing the reporting required and resultant costs of brokers and dealers.

X. *Request for Comments.* Due to the implementation of amended Rule 15c3–1 [17 CFR 240.15c3–1] on January 1, 1976, the financial reporting and surveillance systems of the Commission and the self-regulators will become obsolete. Public interest and the protection of investors therefore appear to require that the FOCUS Report and accompanying rule and form amendments be adopted as efficient in theory, and the form satisfactory in substance, certain modifications may subsequently be necessary in order to achieve a smoother practical application. It is the Commission's view that the areas requiring additional refinement will become apparent after the self-regulators and the brokers and dealers have had several months experience with the FOCUS reporting structure. Therefore, comments are requested on or before March 31, 1976, suggesting the adoption on or before June 30, 1976, of proposed amendments to the FOCUS Report and the accompanying implementation program.

Commentators are requested to consider, in addition to other issues, the following subjects:

(1) the viability of the format of Part I, Part II and Part IIA of Form X–17A–5 [17 CFR 249.617], and suggested additions or deletions thereto;

(2) the appropriateness of filing frequencies of Part I, Part II and Part IIA of Form X–17A–5 [17 CFR 249.617];

(3) the feasibility of further combining Form X–17A–5 [17 CFR 249.617], Form X–17A–10 [17 CFR 249.618] and Form X–17A–20 [17 CFR 249.636] in order to effect a greater reduction in reporting requirements;

(4) possible alternative means by which the annual audit requirements, the collection of surveillance material and the collection of economic data on a comparable time basis for all brokers and dealers may be achieved;

(5) the effectiveness of the revised annual audit report format and accompanying changes to Rule 17a–5 [17 CFR 240.17a–5] and Rule 17a–11 [17 CFR 240.17a–11]; and

(6) the appropriateness of requiring municipal securities brokers and dealers to be subject to the FOCUS reporting structure.

Interested persons should submit their comments in writing on or before March 31, 1976. All such communications should be directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–594 and will be available for public inspection.

(Secs. 2, 6, 10, 15, 17, 23, 48 Stat. 881, 885, 891, 895, 897, 901 (15 U.S.C. 78b, 78f, 78j, 78o, 78q, 78w) as amended by Secs. 2, 4, 11, 14, 18, Pub. L. 94–29).

By the Commission

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 17, 1975.

PART 200—ORGANIZATION, CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. Commission action: Pursuant to section 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 200.30–3 in Chapter II of Title 17 of the Code of Federal Regulations by revising the introductory paragraph and (a)(5) to read as follows:

§ 200–30–3 Delegation of authority to Director of Division of Market Regulation.

Pursuant to the provisions of Public Law No. 87–592, 76 Stat. 394, (15 U.S.C. 78d–1, 78d–2), the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following functions to the Director of the Division of Market Regulation to be performed by him or under his direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) * * *

(5) Pursuant to Rule 17a–5(1)(3) (§ 240.17a–5(1)(3) of this chapter), to consider applications, by brokers and dealers for exemptions from, and extension of time within which to file, reports required by Rule 17a–5 (§ 240.17a–5 of this chapter), and to grant, and to authorize the issuance of orders denying, such applications provided such applicant is advised of his right to have such denial reviewed by the Commission.

* * * * *

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

1. Commission action: Pursuant to sections 2, 10, 15, 17(a), 17(e) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 240.17a–4 in Chapter II of Title 17 of the Code of Federal Regulations by revising paragraph (b)(8) to read as follows:

§ 240.17a–4 Records to be preserved by certain brokers and dealers.

(b) * * *

(8) Records which contain the following information in support of amounts included in reports on Form X–17A–5 (§ 249.617 of this chapter) Part II or Part IIA and in annual audited financial statements required by § 240.17a–5:

(i) money balance position, long or short, including description, quantity, price and valuation of each security including contractual commitments in customers' accounts, in cash and fully secured accounts, partly secured accounts, unsecured accounts, and in securities accounts payable to customers;

(ii) money balance and position, long or short, including description, quantity, price and valuation of each security including contractual commitments in non-customers' accounts, in cash and fully secured accounts, partly secured and unsecured accounts, and in securities accounts payable to non-customers;

(iii) position, long or short, including description, quantity, price and valuation of each security including contractual commitments included in the Computation of Net Capital as commitments, securities owned, securities owned not readily marketable, and other investments owned not readily marketable;

(iv) amount of secured demand note, description, of collateral securing such secured demand note including quantity, price and valuation of each security and cash balance securing such secured demand note;

(v) description of futures commoditiy contracts, contract value on trade date, market value, gain or loss, and liquidating equity or deficit in customers' and non-customers' accounts;

(vi) description of futures commodity contracts, contract value on trade date, market value, grain or loss and liquidating equity or deficit in trading and investment accounts;

(vii) description, money balance, quantity, price and valuation of each spot commodity position or commitments in customers' and non-customers' accounts;

(viii) description, money balance, quantity, price and valuation of each spot commodity position or commitments in trading and investment accounts;

(ix) number of shares, description of security, exercise price, cost and market value of put and call options including short out of the money options having no market or exercise value, showing listed and unlisted put and call options separately;

(x) quantity, price, and valuation of each security underlying the haircut for undue concentration made in the Computation for Net Capital;

(xi) description, quantity, price and valuation of each security and commodity position or contractual commitment, long or short, in each joint account in which the broker or dealer has an interest, including each participant's interest and margin deposit;

(xii) description, settlement date, contract amount, quantity, market price, and valuation for each aged failed to deliver requiring a charge in the Computation of Net Capital pursuant to § 240.15c3–1;

(xiii) detail relating to information for possession or control requirements under § 240.15c3–3 and reported on the schedule in Part II or IIA of Form X–17A–5 (§ 249.617 of this chapter);

(xiv) detail of all items, not otherwise substantiated, which are charged or credited in the Computation of Net Capital pursuant to § 240.15c3–1, such as cash margin deficiencies, deductions related to securities values and undue concentration, aged securities differences and insurance claims receivable; and

(xv) other schedules which are specifically prescribed by the Commission as necessary to support information reported as required by § 240.17a–5.

* * * * *

2. Commission action: Pursuant to sections 2, 10, 15, 17(a), 17(e) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission revises § 240.17a–5 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

(a) *Filing of Monthly and Quarterly Reports.* (1) This paragraph (a) shall apply to every broker or dealer registered pursuant to Section 15 of the Act.

(2) (i) Every broker or dealer subject to this paragraph (a) who clears or carries customer accounts shall file Part I of Form X–17A–5 (§ 249.617 of this chapter) within 10 busines days after the end of each month.

(ii) Every broker or dealer subject to this paragraph (a) who clears or carries customer accounts shall file Part II of Form X–17A–5 (§ 249.617 of this chapter) within 17 business days after the end of the calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than a calendar quarter. Certain of such brokers or dealers shall file Part IIA in lieu thereof if the nature of their business is limited as described in the instructions to Part II of Form X–17A–5 (§ 249.617 of this chapter).

(iii) Every broker or dealer who does not carry nor clear customer accounts shall file Part IIA of Form X–17A–5 (§ 249.617 of this chapter) within 17 business days after the end of each calendar quarter and within 17 business days after the date selected for the annual audit of financial statements where said date is other than the end of the calendar quarter.

(iv) Upon receiving written notice from the Commission or the examining authority designated pursuant to Section 17(d) of the Act, a broker or dealer who receives such notice shall file monthly, or at such times as shall be specified, Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) and such other financial or operational information as shall be required by the Commission or the designated examining authority.

(3) The reports provided for in this paragraph (a) shall be considered filed when received at the Commission's principal office in Washington, D.C. and the regional office of the Commission for the region in which the broker or dealer has its principal place of business. Except as provided for in paragraph (c)(3), such reports shall be available for examination at the principal office of the broker or dealer.

(4) The provisions of subparagraphs (2) and (3) of paragraph (a) shall not apply to a member of a national securities exchange or a registered national securities association if said exchange or association maintains records containing the information required by Part I, Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter), as to such member, and transmits to the Commission a copy of the applicable parts of Form X–17A–5 (§ 249.617 of this chapter) as to such member, pursuant to a plan, the procedures and provisions of which have been submitted to and declared effective by the Commission. Any such plan filed by a national securities exchange or a registered national securities association may provide that when a member is also a member of one or more national securities exchanges, or of one or more national securities associations, the information required to be submitted with respect to any such member may be submitted by only one specified national securities exchange or registered national securities association. For the purposes of this section, a plan filed with the Commission by a national securities exchange or a registered national securities association shall not become effective unless the Commission, having due regard for the fulfillment of the Commission's duties and responsibilities under the provisions of the Act, declares the plan to be effective. Further, the Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties and responsibilities under the Act.

(b) *Report Filed Upon Termination of Membership Interest.* (1) If a broker or dealer holding any membership interest in a national securities exchange ceases to be a member in good standing of such exchange, such broker or dealer shall, within two business days after such event, file with the Commission Part II of Form X–17A–5 (§ 249.617 of this chapter) as of the date of such event.

The report shall be filed at the Commission's principal office in Washington, D.C., and with the regional office of the Commission for the region in which the broker or dealer has its principal place of business: *Provided, however,* That such report need not be made or filed if the Commission, upon written request or upon its own motion, exempts such broker or dealer, either unconditionally or on specified terms and conditions, from such requirement: *Provided, further,* That the Commission may, upon request of the broker or dealer, grant extensions of time for filing the report specified herein for good cause shown.

(2) Attached to the report required by subparagraph (1) of this paragraph shall be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the report is true and correct. The oath or affirmation shall be made before a person duly authorized to administer such oath or affirmation. If the broker or dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer, or, in his absence, by the person authorized to act in his place.

(3) For the purposes of this paragraph (b) "membership interest" shall include the following: full membership, allied membership, associated membership, floor privileges, and any other interest that entitles a broker or dealer to the exercise of any privilege on an exchange.

(4) For the purposes of this paragraph (b), any broker or dealer shall be deemed to have ceased to be a member in good standing of such exchange when he has resigned, withdrawn, or been suspended or expelled from a membership interest in such exchange or has directly or through any associated person sold or entered into an agreement for the sale of a membership interest which would on consummation thereof result in the termination of the broker's or dealer's membership interest in such exchange.

(5) Whenever any national securities exchange takes any action which causes any broker or dealer which is a member of such exchange to cease to be a member in good standing of such exchange or when such exchange learns of any action by such member or any other person which causes such broker or dealer to cease to be a member in good standing of such exchange, such exchange shall report such action promptly to the Commission, furnishing information as to the circumstances surrounding the event, and shall send a copy of such notification to the broker or dealer and notify such broker or dealer of his responsibilities under this paragraph (b).

(c) *Customer Statements*—(1) *Who must furnish the statements.* Every broker or dealer shall file with the Commission at its principal office in Washington, D.C., with the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and with each national securities exchange and registered national securities association of which it is a member, and shall send to its customers the statements prescribed by subparagraphs (2) and (3) of this paragraph (c), except if the activities of such broker or dealer are limited to any one or combination of the following and are conducted in the manner prescribed herein:

(i) As introducing broker or dealer, the forwarding of all the transactions of his customers to a clearing broker or dealer on a fully disclosed basis: *Provided,* That such clearing broker or dealer reflects such transactions on its books and records in accounts it carries in the names of such customers and that the introducing broker or dealer does not hold funds or securities for, or owe funds or securities to, customers other than funds and securities promptly forwarded to the clearing broker or dealer or to customers;

(ii) The prompt forwarding of subscriptions for securities to the issuer, underwriter or other distributor of such securities and of receiving checks, drafts, notes, or other evidences of indebtedness payable solely to the issuer, underwriter or other distributor who delivers the security directly to the subscriber or to a custodian bank, if the broker or dealer does not otherwise hold funds or securities for, or owe money or securities to, customers;

(iii) The sale and redemption of redeemable shares of registered investment companies or the solicitation of share accounts of savings and loan associations in the manner contemplated by the $2,500 minimum net capital requirement

of § 240.15c3-1 or the offering to extend any credit to or participate in arranging a loan for a customer to purchase insurance in connection with the sale of redeemable shares of registered investment companies; or

(iv) Conduct which would exempt the broker or dealer from the provisions of § 240.17a-13 by reason of the provisions of paragraph (a) of that section.

(2) *Audited statements to be furnished.* The following statements shall be sent to customers within 45 days after the broker or dealer files with the Commission the information required by paragraph (d):

(i) A balance sheet with appropriate notes prepared in accordance with generally accepted accounting principles which shall be audited if the financial statements furnished in accordance with paragraph (d) of this section are required to be certified;

(ii) A footnote containing a statement of the amount of the broker's or dealer's net capital and its required net capital, computed in accordance with § 240.15c3-1. Such statement shall include summary financial statements of subsidiaries consolidated pursuant to Appendix C of § 240.15c3-1, where material, and the effect thereof on the net capital and required net capital of the broker or dealer;

(iii) If, in connection with the most recent annual audit report pursuant to § 240.17a-5, the independent accountant commented on any material inadequacies in accordance with paragraphs (g) and (h) and § 240.17a-11(d), there shall be a statement by the broker or dealer that a copy of such report and comments is currently available for the customer's inspection at the principal office of the Commission in Washington, D.C., and the regional office of the Commission for the region in which the broker or dealer has its principal place of business; and

(iv) A statment indicating that the Statement of Financial Condition of the most recent annual audit report of the broker or dealer pursuant to § 240.17a-5 is available for examination at the principal office of the broker or dealer and at the regional office of the Commission for the region in which the broker or dealer has its principal place of business.

(3) *Unaudited statements to be furnished.* The statements shall contain the information specified in subparagraphs (c)(2)(i) and (ii). Said unaudited statements shall be as of the date 6 months from the date of the audited statements required to be furnished pursuant to subparagraphs (c)(1) and (2) and shall be furnished not later than six months after the date that the audited statements required by subparagraph (c)(2) were furnished.

(4) *Definition of "customer."* For purposes of this paragraph (c), the term "customer" includes any person other than: (i) another broker or dealer who is exempted by subparagraph (c)(1); (ii) a general, special or limited partner or director or officer of a broker or dealer; or (iii) any person to the extent that such person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer, for or with whom a broker or dealer has effected a securities transaction in a particular month, which month shall be either the month preceding the balance sheet date or the month following the balance sheet date in which the statement is sent. The term "customer" also includes any person for whom the broker or dealer holds securities for safekeeping or as collateral or for whom the broker or dealer carries a free credit balance in the month in which customers are determined for purposes of this paragraph (c).

(d) *Annual Filing of Audited Financial Statements.* (1) (i) Every broker or dealer registered pursuant to Section 15 of the Act shall file annually, on a calendar or fiscal year basis, a report which shall be audited by an independent public accountant. Reports pursuant to this paragraph (d) shall be as of the same fixed or determinable date each year unless a change is approved by the Commission.

(ii) A broker or dealer succeeding to and continuing the business of another broker or dealer need not file a report under this paragraph as of a date in the fiscal or calendar year in which the succession occurs if the predecessor broker or dealer has filed a report in compliance with this paragraph as of a date in such fiscal or calendar year.

(iii) A broker or dealer who has not transacted a business in securities directly with or for other than members of a national securities exchange, and has not carried any margin account, credit balance or security for any person who is defined as a "customer" in paragraph (c)(4) of this section, shall not be required to file a report under this paragraph.

(2) The annual audited report shall contain a Statement of Financial Condition (in a format and on a basis which is consistent with the totals reported on the Statement of Financial Condition contained in Form X-17A-5 (§ 249.617 of this chapter), Part II or Part IIA), a Statement of Changes in Stockholders' or Partners' or Sole Proprietor's Equity, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors. Such statements shall be in a format which is consistent with such statements as contained in Form X-17A-5 (§ 249.617 of this chapter) Part II or Part IIA.

(3) Supporting schedules shall include, from Part II or Part IIA of Form X-17A-5 (§ 249.617 of this chapter) a Computation of Net Capital Under § 240.15c3-1, a Computation for Determination of the Reserve Requirements under Exhibit A of § 240.15c3-3 and Information Relating to the Possession or Control Requirements Under § 240.15c3-3 and shall be filed with said report.

(4) A reconciliation, including appropriate explanations, of the Computation of Net Capital under § 240.15c3-1 and the Computation for Determination of the Reserve Requirements Under Exhibit A of § 240.15c3-3 in the audit report with the broker's or dealer's corresponding unaudited most recent Part II or Part IIA filing shall be filed with said report when material differences exist. If no material differences exist, a statement so indicating shall be filed.

(5) The annual audit report shall be filed not more than sixty (60) days after the date of the financial statements.

(6) The annual audit report shall be filed at the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, D.C., and the principal office of the designated examining authority for said broker or dealer. Copies thereof shall be provided to all self-regulatory organizations of which said broker or dealer is a member.

(e) *Nature and form of reports.* The financial statements filed pursuant to paragraph (d) of this section shall be prepared and filed in accordance with the following requirements:

(1)(i) An audit shall be conducted by a certified public accountant who shall be in fact independent as defined in paragraph (f)(3) herein, and he shall give an opinion covering the statements filed pursuant to paragraph (d); *Provided, however,* That the financial statements filed pursuant to paragraph (d) need not be audited if, since the date of the previous financial statements of the report filed pursuant to § 240.15b1-2 or this section: (a) the securities business of such broker or dealer has been limited to acting as broker (agent) for the issuer in soliciting subscriptions for securities of such issuer, said broker has promptly transmitted to such issuer all funds and promptly delivered to the subscriber all securities received in connection therewith, and said broker has not otherwise held funds or securities for or owed money or securities to customers; or (b) its securities business has been limited to buying and selling evidences of indebtedness secured by mortgage, deed or trust, or other lien upon real estate or leasehold interests, and said broker or dealer has not carried any margin account, credit balance or security for any securities customer.

(ii) A broker or dealer who files a report which is not covered by an accountant's opinion shall include in the oath or affirmation required by paragraph (e)(2) of this section a statement of the facts and circumstances relied upon as a basis for exemption from the requirement that financial statements and schedules filed pursuant to paragraph (d) be covered by the opinion of an accountant.

(2) Attached to the report shall be an oath or affirmation that, to the best knowledge and belief of the person making such oath or affirmation, the financial statements and schedules are true and correct. The oath or affirmation shall be made before a person duly authorized to administer such oaths or affirmations. If the broker or dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partner-

ship, by a general partner; or if a corporation, by a duly authorized officer.

(3) All of the statements filed pursuant to paragraph (d) shall be public, except that, if the Statement of Financial Condition in a format which is consistent with Form X–17A–5 (§ 249.617 of this chapter), Part II or Part IIA, is bound separately from the balance of the annual audited financial statements filed pursuant to subparagraph (d)(1), the balance of the annual audited financial settlements shall be deemed confidential, except that they shall be available for official use by any official or employee of the United States or any State, by national securities exchanges and registered national securities associations of which the person filing such report is a member, and by any other person to whom the Commission authorizes disclosure of such information as being in the public interest. Nothing contained in this subparagraph (3) shall be deemed to be in derogation of the rules of any registered national securities association or national securities exchange which give to customers of a member broker or dealer the right, upon request to such member broker or dealer, to obtain information relative to its financial condition.

(4) The broker or dealer shall file with the report a supplemental report which shall be covered by an opinion of the independent public accountant on the status of the membership of the broker or dealer in the Securities Investor Protection Corporation ("SIPC") if, pursuant to subparagraph (c)(1), a report of the broker or dealer is required to be covered by an opinion of a certified public accountant or a public accountant who is in fact independent. The supplemental report shall cover the SIPC annual general assessment reconciliation or exclusion from membership forms not previously reported on under this subparagraph (4) which were required to be filed on or prior to the date of the report required by paragraph (b) of this section. The supplemental report, which shall be submitted in triplicate original to the regional office of the Commission for the region in which the broker or dealer has its principal place of business, be bound separately, be dated and be signed manually, shall include the following:

(i) A schedule of assessment payments also showing any overpayments applied and overpayments carried forward including: payment dates, amounts, and name of SIPC collection agent to whom mailed, or

(ii) If exclusion from membership was claimed, a statement that the broker or dealer qualified for exclusion from membership under the Securities Investor Protection Act of 1970, and the date and name of the SIPC collection agent with whom a Certification of Exclusion from Membership (Form SIPC–3) was filed, and

(iii) An accountant's report which shall state that in the accountant's opinion either the assessments were determined fairly in accordance with applicable instructions and forms, or that a claim for exclusion from membership was consistent with income reported. If exceptions are noted, the accountant shall state any corrective action taken or proposed. The accountant's review on which his report is based shall include as a minimum the following procedures:

(A) Comparison of listed assessment payments with respective cash disbursements record entries;

(B) For calendar year 1975 or preceding years, comparison of amounts reflected in Form X–17A–10 (§ 249.618 of this chapter) with amounts reported in the Annual General Assessment Reconciliation (Form SIPC–7);

(C) For all or any portion of a fiscal year ending in 1976 and each fiscal year thereafter, comparison of amounts reflected in Form X–17A–5 (§ 249.617 of this chapter) as required by paragraph (b) of this section, with amounts reported in the Annual General Assessment Reconciliation (Form SIPC–7);

(D) Comparison of adjustments reported in Form SIPC–7 with supporting schedules and working papers supporting adjustments;

(E) Proof of arithmetical accuracy of the calculations reflected in Form SIPC–7 and in the schedules and working papers supporting adjustments; and

(F) Comparison of the amount of any overpayment applied with the Form SIPC–7 on which it was computed; or

(G) If exclusion from membership is claimed, the accountant shall review Form X–17A–10 (§ 249.618 of this chapter) for calendar year 1975 or preceding years, Form X–17A–5 (§ 249.617 of this chapter) for all or any portion of a fiscal year ending in 1976 and each fiscal year ending in 1976 and each fiscal year thereafter to ascertain that the Certification of Exclusion from Membership (Form SIPC–3) was consistent with the income reported.

(f)(1) *Qualification of accountants.* The Commission will not recognize any person as a certified public accountant who is not duly registered and in good standing as such under the laws of his place of residence or principal office.

(2) *Designation of accountant.* Every broker or dealer subject to this section shall file no later than December 10 of each year a statement with the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which its principal place of business is located, and the principal office of the designated examining authority for such broker or dealer. Such statement shall indicate the existence of an agreement dated no later than December first, with an independent public accountant covering a contractual commitment to conduct the broker's or dealer's annual audit during the following calendar year.

The agreement may be of a continuing nature, providing for successive yearly audits, in which case no further filing is required. If the agreement is for a single audit, or if the continuing agreement previously filed has been terminated or amended, a new statement must be filed by the required date.

The statement shall be headed "Notice pursuant to Rule 17a–5(f)(2)" and shall contain the following information: (i) name, address, telephone number and registration number of the broker or dealer; (ii) name, address and telephone number of the accounting firm; and (iii) the audit date of the broker or dealer for the year covered by the agreement.

(3) *Independence of accountant.* An accountant shall be independent in accordance with the provisions of § 210.2–01(b) and (c) of this chapter.

(4) *Replacement of accountant.* A broker or dealer shall file a notice which must be received by the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which its principal place of business is located, and the principal office of the designated examining authority for such broker or dealer, not more than 15 business days after:

(i) The broker or dealer has notified the accountant whose opinion covered the most recent financial statements filed under paragraph (d) of this section that his services will not be utilized in future engagements; or

(ii) The broker or dealer has notified an accountant who was engaged to give an opinion covering the financial statements to be filed under paragraph (d) that the engagement has been terminated; or

(iii) An accountant has notified the broker or dealer that he would not continue under an engagement to give an opinion covering the financial statements to be filled under paragraph (d); or

(iv) A new accountant has been engaged to give an opinion covering the financial statements to be filed under paragraph (d) without any notice of termination having been given to or by the previously engaged accountant.

Such notice shall state (a) the date of notification of the termination of the engagement or engagement of the new accountant as applicable and (b) the details of any problems existing during the 24 months (or the period of, the engagement, if less) preceding such termination or new engagement relating to any matter of accounting principles or practices, financial statement disclosure, auditing scope or procedure, or compliance with applicable rules of the Commission, which problems, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to them in connection with his report on the subject matter of the problems. The problems required to be reported in response to the preceding sentence include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Problems contemplated by this section are those which occur at the decisionmaking level—i.e., between principal financial officers of the broker-dealer and personnel of the accounting firm responsible for rendering its report. The notice shall also state whether the accountant's report on the financial statements for any of the past

two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles, and describe the nature of each such adverse opinion, disclaimer of opinion, or qualification. The broker or dealer shall also request the former accountant to furnish the broker or dealer with a letter addressed to the Commission stating whether he agrees with the statements contained in the notice of the broker or dealer and, if not, stating the respects in which he does not agree. The broker or dealer shall file three copies of the notice and the accountant's letter, one copy of which shall be manually signed by the sole proprietor, or a general partner or a duly authorized corporate officer, as appropriate, and by the accountant, respectively.

(g) *Audit objectives.* (1) The audit shall be made in accordance with generally accepted auditing standards and shall include a review of the accounting system, the internal accounting control and procedures for safeguarding securities including appropriate tests thereof for the period since the prior examination date. The audit shall include all procedures necessary under the circumstances to enable the independent public accountant to express an opinion on the statement of financial condition, results of operations, changes in financial position, and the Computation of Net Capital under § 240.15c3–1, the Computation for Determination of Reserve Requirements for Brokers or Dealers under Exhibit A of § 240.15c3–3, and Information Relating to the Possession or Control Requirements under § 240.15c3–3. The scope of the audit and review of the accounting system, the internal control and procedures for safeguarding securities shall be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (a) the accounting system; (b) the internal accounting controls; (c) procedures for safeguarding securities; and (d) the practices and procedures whose review is specified in (i), (ii), (iii) and (iv) of this paragraph would be disclosed. Additionally, as specific objectives, the audit shall include reviews of the practices and procedures followed by the client:

(i) in making the periodic computations of aggregate indebtedness and net capital under § 240.17a–3(a)(11) and the reserve required by § 240.15c3–3(e);

(ii) in making the quarterly securities examinations, counts, verifications and comparisons and the recordation of differences required by § 240.17a–13;

(iii) in complying with the requirement for prompt payment for securities of Section 4(c) of Regulation T (§ 220.4(c) of Chapter II of Title 12) of the Board of Governors of the Federal Reserve System; and

(iv) in obtaining and maintaining physical possession or control of all fully paid and excess margin securities of customers as required by § 240.15c3–3.

(2) If the broker or dealer is exempt from § 240.15c3–3, the independent public accountant shall ascertain that the conditions of the exemption were being complied with as of the examination date and that no facts came to his attention to indicate that the exemption had not been complied with during the period since his last examination.

(3) A material inadequacy in the accounting system, internal accounting controls, procedures for safeguarding securities, and practices and procedures referred to above which is expected to be reported under these audit objectives includes any condition which has contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to (i) inhibit a broker or dealer from promptly completing securities transactions or promptly discharging his responsibilities to customers, other broker-dealers or creditors; (ii) result in material financial loss; (iii) result in material misstatements of the broker's or dealer's financial statements; or (iv) result in violations of the Commission's recordkeeping or financial responsibility rules to an extent that could reasonably be expected to result in the conditions described in parts (i), (ii), or (iii) of this subparagraph (3).

(h) *Extent and Timing of Audit Procedures.* (1) The extent and timing of audit procedures are matters for the independent public accountant to determine on the basis of his review and evaluation of existing internal controls and other audit procedures performed in accordance with generally accepted auditing standards and the audit objectives set forth in paragraph (g) above. In determining the extent of testing, consideration shall be given to the materiality of an area and the possible effect on the financial statements and schedules of a material misstatement in a related account. The performance of auditing procedures involves the proper synchronization of their application and thus comprehends the need to consider simultaneous performance of procedures in certain areas such as, for example, securities counts, transfer verification and customer and broker confirmation in connection with verification of securities positions.

(2) If, during the course of the audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, internal accounting control, procedures for safeguarding securities, or as otherwise defined in subparagraph (g)(3), then he shall call it to the attention of the chief financial officer of the broker or dealer, who shall have a responsibility to inform the Commission and the designated examining authority by telegraphic notice within 24 hours thereafter as set forth in paragraphs (d) and (f) of § 240.17a–11. The broker or dealer shall also furnish the accountant with a copy of said notice to the Commission by telegraphic communication within said 24 hour period. If the accountant fails to receive such notice from the broker or dealer within said 24 hour period, or if he disagrees with the statements contained in the notice of the broker or dealer, the accountant shall have a responsibility to inform the Commission and the designated examining authority by report of material inadequacy within 24 hours thereafter as set forth in paragraph (f) of § 240.17a–11. Such report from the accountant shall, if the broker or dealer failed to file a notice, describe any material inadequacies found to exist. If the broker or dealer filed a notice, the accountant shall file a report detailing the aspects, if any, of the broker's or dealer's notice with which the accountant does not agree.

(i) *Accountant's reports, general provisions.*—(1) *Technical requirements.* The accountant's report shall: (i) be dated; (ii) be signed manually; (iii) indicate the city and state where issued; and (iv) identify without detailed enumeration the financial statements and schedules covered by the report.

(2) *Representations as to the audit.* The account's report shall: (i) state whether the audit was made in accordance with generally accepted auditing standards; (ii) state whether the accountant reviewed the procedures followed for safeguarding securities; and (iii) designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which have been omitted, and the reason for their omission.

Nothing in this section shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required under this section.

(3) *Opinion to be expressed.* The accountant's report shall state clearly the opinion of the accountant: (i) in respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and (ii) as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements.

(4) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

(5) *Definitions.* For the purpose of this section, the terms "audit" (or "examination"), "accountant's report," and "certified" shall have the meanings given in § 210.1–02 of this chapter.

(j) *Accountant's report on material inadequacies.*

The broker or dealer shall file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist or found to have existed since the date of the previous audit. The supplemental report shall indicate any corrective action taken or proposed by the broker or dealer in regard thereto. If the audit did not disclose any material inadequacies, the supplemental report shall so state.

(k) *Use of certain statements filed with the Securities and Exchange Commission.* At the request of any broker or dealer who is (i) an investment company registered under the Investment Company Act of 1940, or (ii) a sponsor or depositor of such a registered investment company who effects transactions in securities only with, or on behalf of, such registered investment company, the Commission will accept the financial statements filed pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 and the rules and regulations promulgated thereunder as a filing pursuant to paragraph (d) of this section. Such a filing shall be deemed to satisfy the requirements of this section for any calendar year in which such financial statements are filed, provided that the statements so filed meet the requirements of the other rules under which they are filed with respect to time of filing and content.

(l) *Extensions and Exemptions.* (1) (a) In the event any broker or dealer finds that it cannot file its report for any year within the time specified in paragraph (d) of this section without undue hardship, it may file with the Commission's principal office in Washington, D.C. and the appropriate regional office as specified in subparagraph (d)(6), an application for an extension of time to a specified date which shall not be more than 90 days after the date as of which his financial condition is reported. Notice of such application shall be sent to the designated examining authority. The application shall be made by the broker or dealer and shall:

(i) state the reasons for the requested extension;

(ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the broker or dealer if such is the case, and describe briefly the nature of such circumstance;

(iii) indicate if the broker or dealer is in violation of the net capital requirements specified in § 240.15c3–1 or the requirements of § 240.15c3–3, or has any significant financial or recordkeeping problems;

(iv) contain an agreement to file the report on or before the date specified by the broker or dealer in the application; and

(v) be received by the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, D.C. and the principal office of the designated examining authority prior to the date upon which the report is due.

(vi) be accompanied by a letter from the independent public accountant answering the following questions:

(A) What specifically are the reasons for the extension request?

(B) On the basis of that part of your audit to date, do you have an indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting control and procedures for safeguarding securities?

(C) Do you have any indication from that part of your audit completed to date that would lead you to believe that the condition of the firm's records is endangering its ability to supervise its registered representatives and their handling of customer accounts.

(D) Do you have any indication from that part of your audit completed to date that would lead you to believe that the firm is in violation of the net capital requirements specified in § 240.15c3–1 or the requirements of § 240.15c3–3, or has any significant financial or recordkeeping problems?

(b) Within 10 calendar days after the request for extension of time has been received by the appropriate regional office as specified in subparagraph (d)(6), the regional office shall:

(i) notify the broker or dealer and its designated examining authority of the grant or denial of the requested extension; or

(ii) indicate to the broker or dealer that additional time is required to satisfactorily analyze the request, in which case the amount of time needed shall be specified.

(2) Any "bank" as defined in section 3(a)(6) of the Act (48 Stat. 882; 15 U.S.C. 78c) and any "insurance company" as defined in Section 3(a)(19) of the Act (78 Stat. 565; 15 U.S.C. 78c) registered as a broker or dealer to sell variable contracts but exempt from § 240.15c3–1 shall be exempt from the provisions of this section.

(3) On written request of any national securities exchange, registered national securities association, broker or dealer, or on its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of this section either unconditionally or on specified terms and conditions.

(m) *Notification of change of fiscal year.* In the event any broker or dealer finds it necessary to change its fiscal year it must file, with the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and the principal office of the designated examining authority for such broker or dealer, a notice of such change.

Such notice shall contain a detailed explanation of the reasons for the change, and indicate whether the filing of the annual audit report will be delayed as a result thereof. If the filing of the audit report will be delayed, the broker or dealer shall include in the notice the representations required by subparagraph (a)(1) of paragraph (1).

(n) *Filing Requirements.* For purposes of filing requirements as described in § 240.17a–5, such filing shall be deemed to have been accomplished upon receipt at the Commission's principal office in Washington, D.C., with duplicate originals simultaneously filed at the locations prescribed in the particular paragraph of § 240.17a–5 which is applicable.

3. Commission action: Pursuant to section 2, 6(e), 17(a) and 23 (a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 240.17a–10 in Chapter II of Title 17 of the Code of Federal Regulations by revising paragraphs (a), (d) and (e) to read as follows:

§ 240.17a–10 Report of revenue and expenses.

(a) Every broker or dealer registered pursuant to Section 15 of the Act shall, not later than 45 days after the close of each calender year (commencing with the calendar year 1975), file a report of his revenue and expenses, and related financial and other information for such calendar year on Form X–17A–10 (§ 249.618 of this chapter). Brokers or dealers required to complete Part III only or Schedules A through D shall file Form X–17A–10 (§ 249.618 of this chapter) not later than 60 days after the close of each calendar year.

* * * * *

(d) In the event any broker or dealer finds that he cannot file his report for any year within the time specified in paragraph (a) of this section without undue hardship, he may file with the Commission's principal office in Washington, D.C. an application for an extension of time to a specified date which shall not be later than 105 days after the close of the calendar year for which the report is to be made. The application shall state the reasons for the requested extension and shall contain an agreement to file the report on or before the specified date.

(e) Notwithstanding the time limits for filing established by paragraph (a) of this section any broker or dealer who is subject to said paragraph (a) of this section shall file a report of his revenue and expenses and related financial and other information on Form X–17A–10 (§ 249.618 of this chapter) for calendar year 1975 not later than 60 days after the close of the calendar year.

4. Commission action: Pursuant to Sections 2, 10, 15, 17(a) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission revises § 240.17a–11 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–11 Supplemental current financial and operational reports to be made by certain brokers and dealers.

(a) Every broker or dealer subject to § 240.15c3–1, whose net capital at any time is less than the minimum required by any capital rule to which such person is subject, shall:

(1) Give telegraphic notice as set forth in paragraph (f) of this section that such person's net capital is less than is required by any such capital rule, identifying the applicable net capital rule or rules. The notice shall be given on the same day that such person's capital becomes less than required by any of the aforesaid rules to which such person is subject; and

(2) Within 24 hours thereafter file Part II of Form X–17A–5 (§ 249.617 of this chapter) and such supplementary information as may be required.

(b)(1) If a computation made by a broker or dealer pursuant to the requirements of § 240.15c3–1(c) shows, at any point during the month, that his aggregate indebtedness is in excess of 1,200 per centum of his net capital, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such person shall file a report on Part II of Form X–17A–5 (§249.617 of this chapter) within 15 calendar days after the end of the month for which such computation was required to be made, and within 15 calendar days after the end of each month thereafter until 3 successive months shall have elapsed during which his aggregate indebtedness does not exceed 1,200 per centum of his net capital, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

(2) If a computation made by a broker or dealer pursuant to § 240.15c3–1(f) shows, at any point during the month, that his net capital is less than 6 percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A: Formula for the Determination of Reserve Requirements, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such broker or dealer shall file a report on Part II of Form X–17A–5 (§ 249.617 of this chapter) within 15 calendar days after the end of the month for which such computation is made, and within 15 days after the end of each month thereafter until three successive months shall have elapsed during which his net capital is not less than six percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

(c) At any time when a broker or dealer subject to § 240.17a–3 fails to make and keep current the books and records specified therein, he shall immediately give telegraphic notice of such fact, specifying the books and records which have not been made or which are not current, and within 48 hours of the telegraphic notice file a report stating what steps have been and are being taken to correct the situation.

(d) Whenever any broker or dealer discovers, or is notified by an independent public accountant, pursuant to paragraph (h)(2) of § 240.17a–5 of the existence of any material inadequacy as defined in paragraph (g) of § 240.17a–5, said broker or dealer shall give telegraphic notice of such material inadequacy within 24 hours, and within 48 hours of the telegraphic notice file a report stating what steps have been and are being taken to correct the situation.

(e) Whenever any national securities exchange or national securities association learns that a member broker or dealer has failed to file a notice or file a report as required by paragraph (a), (b), (c) or (d) of this section, such organization shall immediately report such failure as provided in paragraph (f) of this section.

(f) Every notice and report required to be given or filed by this section shall be given to or filed with the principal office of the Commission in Washington, D.C., with the regional office of the Commission for the region in which the broker or dealer has its principal place of business, with the designated examining authority of which such broker or dealer is a member, and with the Commodity Futures Trading Commission if such broker or dealer is a member of such Commission.

5. Commission action: Pursuant to Sections 2, 6(e), 17(a) and 23(a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 240.17a–20 in Chapter II of Title 17 of the Code of Federal Regulations by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 240.17a–20 Monitoring effect of competitive commission rates.

(a)(1) Every broker or dealer with revenues as shown on line 6 of Statement A to Part III or line 11 of Statement AA to Part II of Form X–17A–10 (§ 249.618 of this chapter) of $500,000 or more, of which at least 20 percent is derived from brokerage commission transactions effected on national securities exchanges as shown on Line 1(a) of Statement A to Part III, or Line 1(e) of Statement AA to Part II, respectively, of Form X–17A–10 (§ 249.618 of this chapter) during calendar year 1974 shall, not later than 17 business days after the close of each calendar quarter, file a report of his revenues and expenses and related financial and other information for each such calendar quarter on Form X–17A–20 (§ 249.636 of this chapter).

(2) Every broker or dealer required to file for calendar year 1975 Part II to Form X–17A–10 (§ 249.618 of this chapter), and whose commissions earned on transactions in listed equity securities executed on an exchange as shown on Line A(11) of Part II to Form X–17A–10 (§ 249.618 of this chapter), and who does not conduct a business with other than other members of an exchange, shall, not later than 17 business days after the close of each calendar quarter (commencing with the calendar quarter ending March 31, 1976), file a report of revenues and expenses and related financial and other information for each such calendar quarter on Form X–17A–20 (§ 249.636 of this chapter).

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. Commission action: Pursuant to sections 2, 10, 15, 17(a), 17(e) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission revises § 249.617 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 249.617 Form X–17A–5, information required of certain brokers and dealers pursuant to section 17 of the Securities Exchange Act of 1934 and § 240.17a–5 of this subchapter.

This form shall be used by every broker or dealer required to file reports under § 240.17a–5(a)(b) and (d) of this chapter.

2. Commission action: Pursuant to sections 2, 6(e), 17(a) and 23(a) and (b) of the Securities and Exchange Act of 1934, the Securities and Exchange Commission revises § 249.618 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 249.618 Form X–17A–10, annual report of revenue and expenses to be filed by brokers and dealers pursuant to Section 17 of the Act and § 240.17a–10 of this chapter.

This form shall be filed as the annual report of revenues and expenses, and related financial and other information, by every broker or dealer required to file a report pursuant to § 240.17a–10(a) of this chapter, unless such broker or dealer has filed the information required by this form with a national securities exchange or a registered national securities association pursuant to § 240.17a–10(b) of this chapter.

§ 249.621 [Removed]

3. Commission action: Pursuant to Sections 2, 10, 15, 17(a) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission revokes § 249.621 in Chapter II of Title 17 of the Code of Federal Regulations.

4. Commission action: Pursuant to Sections 2, 6(e), 17(a) and 23(a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission revises § 249.636 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 249.636 Form X–17A–20 Monitoring effect of competitive commission rates—revenue and expense information.

This form shall be completed and filed by every broker or dealer required to file a report pursuant to subparagraphs (1) or (2) of § 240.17a–20(a) of this chapter, unless such a broker or dealer has filed the information required of this form with a national securities exchange or a registered national securities association pursuant to subparagraph (3) of § 240.17a–20(a) of this chapter.

[FR Doc.75–34704 Filed 12–29–75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Action

Schedule B, § 213.3259 is amended to show that after March 31, 1976, no new appointments to positions of Regional Directors for Domestic and Anti-Poverty Operations may be made under Schedule B. Current appointees may continue to

serve under this authority until expiration of their appointments, and their appointments may be extended as provided in the authority.

Effective December 30, 1975, § 213.3259 (a) (2) is amended as set forth below:

§ 213.3259 ACTION.

(a) *Office of Domestic and Anti-Poverty Operations.* * * *

(2) Not to exceed ten positions of Regional Director, GS–15. Employment under this authority may not exceed 2 years: *Provided* That the Director of ACTION may extend appointments made under this authority for up to 2 additional years if he deems such action essential to the accomplishment of agency goals. No one may be initially appointed under this authority after March 31, 1976.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] DONALD J. BIGLIN,
Director,
Bureau of Management Services.

[FR Doc.75–35097 Filed 12–29–75;8:45 am]

PART 213—EXCEPTED SERVICE

Miscellaneous Revocations

Subparts A and B of part 213 are amended to show that effective December 30, 1975, the following Schedule A and B authorities, having expired by their own terms, are revoked.

§ 213.3102 Entire Executive Civil Service.

* * * * *

(dd) [Revoked]
(ee) [Revoked]

* * * * *

§ 213.3103 Executive Office of the President.

* * * * *

(f) [Revoked]

* * * * *

§ 213.3107 Department of the Army.

(a) *General.* * * *
(9) [Revoked]

* * * * *

§ 213.3108 Department of the Navy.

(a) *General.* * * *
(14) [Revoked]

* * * * *

§ 213.3113 Department of Agriculture.

(a) *General.* * * *
(8) [Revoked]
(9) [Revoked]

* * * * *

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(l) [Revoked]
(m) [Revoked]

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

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

[FR Doc.75–34967 Filed 12–29–75;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that one position of Confidential Assistant to the Commissioner, ADTS, is excepted under Schedule C.

Effective December 30, 1975, § 213.3337 (h) (4) is added as set out below:

§ 213.3337 General Services Administration.

* * * * *

(h) *Automated Data and Telecommunications Service.* * * *

(4) One position of Confidential Assistant to the Commissioner.

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

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

[FR Doc.75–34965 Filed 12–29–75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show the change in title from Special Assistant to the Special Assistant, Office of the Special Assistant to the Secretary for Civil Rights to Director, Office of Governmental Relations, Office of the Special Assistant to the Secretary for Civil Rights.

Effective December 30, 1975, § 213.3316 (q) (1) is amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(q) *Office of the Special Assistant to the Secretary for Civil Rights.*

(1) Director, Office of Governmental Relations.

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

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75–34966 Filed 12–29–75;8:45 am]

Title 7—Agriculture

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

[Docket No. AO–254–A7]

PART 915—HANDLING OF AVOCADOS IN SOUTH FLORIDA

Correction

In FR Doc. 30312, appearing at page 52605, in the issue for Tuesday, November 11, 1975, in § 915.22(b)(1), the seventh line should read "committee may conduct nominations by".

[Papaya Regulation 6]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Shipments

This regulation establishes quality and size requirements for Hawaiian papayas from January 1 through December 31, 1976 at the same levels as Papaya Regulation 5 effective during 1975. It requires all Hawaiian papayas handled to grade at least Hawaii No. 1 grade. Fruit handled in interstate or export channels shall be of pyriform shape and weigh at least 10 ounces and fruit handled in intrastate channels shall weigh at least 14 ounces except such fruit grading Hawaii Fancy shall weigh at least 16 ounces.

Notice was published in the FEDERAL REGISTER issue of December 8, 1975 (40 FR 57221) that the Department was giving consideration to a proposed regulation for handling of papayas grown in Hawaii, pursuant to the applicable provisions of the marketing agreement, and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Interested persons were afforded opportunity to file written data, views, or arguments thereon. None were filed.

The Papaya Administrative Committee estimates that 1976 production of Hawaiian papayas will again establish a record high level at 48.0 million pounds. This would be about double the average level of the 1970–72 period. Fresh sales are expected to total 42.0 million pounds and the remaining 6.0 million processed. In-state fresh sales have ranged 10.7–13.1 million pounds in recent years and are projected at 13.5 million for 1976. It is anticipated that out-of-state sales will amount to 68 percent of the total fresh sales next year and reach a record large 28.5 million pounds.

The regulation is based upon an appraisal of the prevailing supply and market situation for papayas. It is concluded that the regulation is appropriate for said supply and market conditions expected to prevail during the effective period of the regulation and, consistent with the objectives of the act, will tend to assure consumers of an adequate supply of acceptable quality papayas while maintaining grower returns at a level consistent with the public interest.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendations and information submitted by the Papaya Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such papayas, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of papayas will be regulated only through December 31, 1975, by current Regulation 5, and, in order to effectuate the declared policy of the act, this regulation should be effective not later than January 1, 1976, to provide continuity of regulation; (2) this regulation is the same as that which was specified in the notice (40 FR 57221), to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date thereof.

§ 928.306 Papaya Regulation 6.

Order. (a) During the period January 1, 1976, through December 31, 1976, no handler shall ship any container of papayas:

(1) To any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of the size which individually weigh not less than 14 ounces: *Provided,* That papayas handled as Hawaii Fancy grade shall be of a size which individually weigh not less than 16 ounces.

(2) To any export destination unless said papayas grade at least Hawaii No. 1: *Provided,* That such papayas shall be of pyriform shape and weigh not less than 10 ounces each.

(b) When used herein "Hawaii Fancy", "Hawaii No. 1", "Hawaii No. 2" and "pyriform shape" shall have the same meaning as set forth in the State of Hawaii Revised Regulation No. 1 Subsection 5.32—Wholesale Standards for Hawaiian Grown Papayas. All other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: December 24, 1975, to become effective January 1, 1976.

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

[FR Doc.75-35112 Filed 12-29-75;8:45 am]

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for the 1975–76 Fiscal Year

Notice of a proposal to establish free and restricted percentages of 55 percent and 45 percent, respectively, for filberts grown in Oregon and Washington, was published in the FEDERAL REGISTER on November 25, 1975 (40 FR 54587). These percentages would apply to filberts during the 1975–76 fiscal year, beginning August 1, 1975.

The free percentage prescribes that portion of the total merchantable supply which may be handled as inshell filberts. The restricted percentage prescribes that portion of the total merchantable supply which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

The percentages would be established under § 982.41 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Interested persons were afforded an opportunity to submit written data, views, or arguments on the proposal. None were received.

The percentages are based upon the following estimates for the 1975–76 fiscal year:

	Tons
Inshell Supply:	
(1) Total production	12,500
(2) Less substandard, etc	2,250
(3) Total merchantable production	10,250
Inshell requirements:	
(4) Trade demand	5,000
(5) Carryover July 31, 1976	800
(6) Less carryover August 1, 1975, not subject to regulation	157
(7) Inshell requirement	5,643
Percentages:	
(8) Free percentages (Item (7) divided by Item (3)	55
(9) Restricted percentage (100 percent minus 55 percent)	45

After consideration of all relevant material presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that to establish for the 1975–76 fiscal year, free and restricted percentages applicable to filberts grown in Oregon and Washington, of 55 percent and 45 percent, respectively, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), in that: (1) The relevant provisions of the amended marketing agreement and this part require that free and restricted percentages designated for a particular fiscal year shall be applicable to all inshell filberts handled during that fiscal year; (2) the current fiscal year began on August 1, 1975, and the percentages established by this action will automatically apply to all such filberts beginning with that date; and (3) no useful purpose would be served by delaying this action.

Therefore, the free and restricted percentages for merchantable filberts during the 1975–76 fiscal year are established as follows:

§ 982.225 Free and restricted percentages for merchantable filberts during the 1975–76 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1975:

Free percentage	55
Restricted percentage	45

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

Dated: December 19, 1975.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.75-34792 Filed 12-29-75;8:45 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Establishment of Free and Restricted Percentages and Withholding Factors for the 1975–76 Crop Year

Notice was published in the November 24, 1974, issue of the FEDERAL REGISTER (40 FR 54428) regarding a proposal to establish free and restricted percentages and withholding factors of 100 percent, 0 percent, and 0 percent, respectively, for Deglet Noor, Zahidi, Halawy, and Khadrawy dates. The 1975–76 crop year began October 1, 1975. The proposal was pursuant to the marketing agreement as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

The free percentages, restricted percentages, and withholding factors for the 1975–76 crop year are applicable to marketable dates and are pursuant to §§ 987.44 and 987.45. These percentages and factors are based on estimates by the California Date Administrative Committee of supply and trade demand, adjusted for handler carryover and other available information, for the current crop year. Trade demand means the aggregate quantity of whole or pitted dates which the trade will acquire from all handlers during the crop year for distribution in the continental United States, Canada, and such other countries as the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States.

In determining the percentages for each of the four varieties, the Committee considered the following data, estimates and information for the crop year beginning October 1, 1975:

[In 1,000 lb]

	Deglet Noor	Zahidi	Halawy	Khadrawy
1. Production of marketable dates (1975-76 crop)	35,385	1,926	208	544
2. Plus: Noncertified handler carryover as of Sept. 30, 1975, of marketable dates	7,454	441	130	240
3. Total marketable supply	43,439	2,367	338	784
4. Trade demand for free whole and pitted dates (continental United States and Canada)	15,000	1,800	100	350
5. Plus: Desirable handler carryover as of Sept. 30, 1976, to assure date supplies for early demand	13,000	435	130	241
6. Less: Certified handler carryover as of Sept. 30, 1975, of free dates	2,651	14	0	1
7. Adjusted trade demand	25,349	2,241	230	890

It is estimated that the amounts in excess of adjusted trade demands for these four varieties will be utilized in products and export markets. Hence, free and restricted percentages and withholding factors of 100 percent, 0 percent, and 0 percent, respectively, should be established for each of these varieties.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is found that to establish free percentages, restricted percentages, and withholding factors as hereinafter set forth will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action does not impose any restrictions upon handlers and gives them flexibility in meeting market needs; (2) the relevant provisions of said marketing agreement and this part require that free and restricted percentages and withholding factors established for a particular crop year shall be applicable during the entire crop year to all marketable dates; and (3) the current crop year began October 1, 1975, and the percentages and withholding factors hereinafter established will apply to all such dates beginning with that date.

The free percentages, restricted percentages, and withholding factors for the 1975–76 crop year are as follows:

§ 987.223 Free and restricted percentages and withholding factors.

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning October 1, 1975, and ending September 30, 1976, as follows:

(a) Deglet Noor variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (b) Zahidi variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (c) Halawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (d) Khadrawy variety dates: Free percentage, 100 percent; restricted percentage; 0 percent; and withholding factor, 0 percent.

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

Dated: December 19, 1975.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.75-34791 Filed 12-29-75;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREA

Correction

In FR Doc. 75-33805, appearing at page 58281, in the issue for Tuesday, December 16, 1975, in the third column, the heading reading "§ 78.20 Movement of bison for purposes other than slaughter" should read "§ 78.20 Certified brucellosis-free areas".

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-EA-76; Amdt. 39-2481]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-24, PA-30, PA-39 type airplanes.

There have been reports that the horizontal and vertical drilled holes in the stabilator torque tube bearing support fitting to accommodate the blind rivets for fuselage skin attachment and high shear rivets, respectively, conflicted. Thus, some of the high shear rivets had been cut.

Since this deficiency can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which will require an inspection and replacement where necessary.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new Airworthiness Directive as follows:

PIPER: Applies to Models PA-24, PA-24-250 and PA-24-260, Serial Nos. 24-1 through 24-5047; PA-24-400, Serial Nos. 26-2 through 26-148; PA-30, Serial Nos. 30-1 through 30-2000; PA-39, Serial Numbers 39-1 through 39-155, certificated in all categories.

Compliance required as indicated.

To prevent possible hazards in flight associated with damaged rivets which attach the stabilator torque tube bearing support fittings P/Ns 20420-00, -01 and 20419-00, 01 to the aft-fuselage, accomplish the following:

(a) Within the next 50 hours in service from the effective date of this AD unless previously accomplished, inspect in accordance with paragraph (b).

(b) Inspect each of the four stabilator torque tube bearing block attachment fittings that do not have Piper Kit 760835 or equivalent incorporated, as follows:

(1) Remove the right rear aft fuselage access door.

(2) Using a light and mirror (with extension), view through the access opening to determine if any of the horizontally positioned rivets through the skin align with any of the vertically positioned rivets through the support fittings.

(c) If more than one rivet is aligned among the five forward rivets in each bearing support fitting, Piper Kit 760835 or equivalent shall be installed in the affected fitting before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where a repair can be made.

(d) Equivalent repairs must be approved by the Chief, Engineering and Manufacturing

Branch, FAA, Eastern Region. (Piper Service Bulletin No. 464, refers to this subject.)

This amendment is effective December 31, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423]; sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on December 17, 1975.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc.75-34944 Filed 12-29-75;8:45 am]

[Docket No. 75-EA-72; Amdt. 39-2480]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 74-10-01 applicable to Piper PA-23 type airplanes.

Since promulgation of this AD, it has been determined that the part numbers 17104-68 and -69 require continued inspection. This amendment deletes reference to such part numbers but permits incorporation of a Piper kit to terminate the airworthiness directive and also update the service bulletin.

In view of the foregoing, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 74-10-01 as follows:

PIPER: Amend AD 74-10-01, Amendment 39-1830, as follows:

1. Delete the paragraph commencing "Upon incorporation" to "not required" and insert "Compliance with this AD is not required upon incorporation of Piper Kits 760 861 (right flap) and 760 817 (left flap) or equivalent parts approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region."

2. Delete "Service Bulletin 408" and insert "Service Bulletin 408B" where it appears.

This amendment is effective December 31, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423]; sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

Issued in Jamaica, N.Y., on December 17, 1975.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.75-34945 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-WA-18]

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

Alteration of Federal Airway and Controlled Airspace; Correction

In FR Doc. 75-33003 appearing on page 57353 in the FEDERAL REGISTER of December 9, 1975, the third line of the paragraph that begins "In V-453," is corrected by deleting "INT King Salmon 272°" and substituting "INT King Salmon 271°" therefor.

Issued in Washington, D.C., on December 19, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-34942 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-NW-24]

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

Designation of Additional Control Area

On October 20, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 48939) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area over the Olympic Peninsula, Wash.

Interested persons were afforded an oppportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, March 25, 1976, as hereinafter set forth.

In § 71.163 (41 FR 348) the following is added:

OLYMPIC PENINSULA, WASH.

That airspace extending upward from 5500 feet MSL beginning at Lat. 48°14' N., Long. 124°45' W., to Lat. 48°00' N., Long. 124°07' W., to Lat. 47°38' N., Long. 123°40' W., to Lat. 47°15' N., Long., 123°40' W., to Lat. 47°07' N., Long. 124°11' W., to Lat. 47°30' N., Long. 124°21' W., to Lat. 48°00' N., Long. 124°45' W., to point of beginning. That airspace below 1200 feet AGL 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 December 19, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-34943 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-43]

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

Designation of Transition Area

On page 26043 of the FEDERAL REGISTER dated June 20, 1975, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Pittsfield, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

§ 71.181 [Amended]

In Section 71.181 (40 FR 441), the following transition area is added:

PITTSFIELD, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Pittsfield Penstone Airport (Latitude 39°38'22" N., Longitude 90°46'51" W.); and within 3 miles each side of the 124 degree bearing from the Pittsfield Penstone Airport extending from the 5.5-mile radius area to 8 miles southeast of the airport.

[FR Doc.75-34751 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-32]

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

Designation of Transition Area

On page 20293 of the FEDERAL REGISTER dated May 9, 1975, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Shelbyville, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is added:

SHELBYVILLE, ILL.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Shelby County Airport (Latitude 39°24'30" N., Longitude 88°50'45" W.);

and within 3 miles either side of the 186° bearing from the Shelby County Airport extending from the 5.5-mile radius area to 8 miles south of the airport.

[FR Doc.75-34752 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-10]

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

Designation of Transition Area

On page 11893 of the FEDERAL REGISTER dated March 14, 1975, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Casey, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is added:

CASEY, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Casey Municipal Airport (Latitude 39°18'00" N., Longitude 88°00'15" W.); and within 3 miles each side of the 211° bearing from the airport extending from the 5-mile radius area to 8 miles southwest of the airport.

[FR Doc.75-34753 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-25]

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

Designation of Transition Area

On page 20291 of the FEDERAL REGISTER dated May 9, 1975, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Carmi, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

CARMI, ILL.

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Carmi Municipal Airport (Latitude 38°06'00" N., Longitude 88°09'00" W.); and within 3 miles either side of the 177° bearing from the airport extending from the 5.5 mile radius area to 8 miles from the airport.

[FR Doc.75-34754 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-28]

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

Designation of Transition Area

On page 20292 of the FEDERAL REGISTER dated May 9, 1975, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Paris, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is added:

PARIS, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Edgar County Airport (Latitude 39°-42'02" N., Longitude 87°39'57" W.); and within 3 miles either side of the 072° bearing from the airport extending from the 5-mile-radius area to 8 miles from the airport.

[FR Doc.75-34755 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-GL-29]

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

Alteration of Transition Area

On page 20292 of the FEDERAL REGISTER dated May 9, 1975, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Lincoln, Illinois.

Interested persons were given thirty days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Des Plaines, Illinois on December 8, 1975.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (40 FR 441), the following transition area is amended to read:

LINCOLN, ILL.

That airspace extending upward from 700 feet above the surface within a five-mile radius of the Logan County Airport (Latitude 40°09'38" N., Longitude 89°20'07" W.); within 2½ miles each side of the Capitol, Illinois VORTAC 040° radial extending from the five-mile radius area to 17 miles northeast of the VORTAC; within 3 miles each side of the 047° bearing from the airport extending from the 5-mile radius area to 8 miles northeast of the airport.

[FR Doc.75-34756 Filed 12-29-75;8:45 am]

[Airspace Docket No. 75-NW-23]

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

Designation of Additional Control Area

On October 21, 1975, a Notice of Proposed Rule Making (NPRM) was published in the Federal Register (40 FR 49100) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area over southeastern Oreg.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, March 25, 1976, as hereinafter set forth.

§ 71.163 [Amended]

In § 71.163 (41 FR 348) the following is added:

LAKEVIEW, OREG.

That airspace extending upward from 10,500 feet MSL bounded on the north by Latitude 44°00" N., on the east by a line extending from Latitude 44°00" N., Longitude 120°00" W., to the north edge of V-122 at Longitude 119°00" W., on the south by the

north edge of V–122, and on the west by the east edge of V–165.

(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 December 18, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-34757 Filed 12-29-75;8:45 am]

[Docket No. 15257; Amdt. No. 1000]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS–230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

§ 97.23 [Amended]

1. Section 97.23 is amended by originating, amending, or cancelling the following VOR–VOR/DME SIAPs, *effective February 12, 1976.*

Corsicana, TX—Corsicana Municipal Arpt., VOR/DME–A, Amdt. 1
Fayetteville, AR—Drake Field, VOR–A, Amdt. 15
Gillette, WY—Gillette-Campbell County Arpt., VOR Rwy 15, Amdt. 2
Kalispell, MT—Glacier Park Int'l Arpt., VOR Rwy 29, Amdt 6
Lake Village, AR—Lake Village Municipal Arpt., VOR–A, Abdt. 2
Lake Village, AR—Lake Village Municipal Arpt., VOR–B, Orig.

. . . effective February 5, 1976.

Alliance, OH—Miller Arpt., VOR–A, Amdt. 3
East Hartford, CT—Rentschler Field, VOR Rwy 36, Amdt. 4
Erie, PA—Erie Int'l Arpt., VOR/DME Rwy 24, Amdt. 5
Ft. Pierce, FL—St. Lucie County Arpt., VOR/DME Rwy 14, Amdt. 4
Hartford, CT—Hartford Brainard Arpt., VOR–A, Amdt. 3
Hilton Head Island, SC—Hilton Head Arpt., VOR/DME–A, Amdt. 4
Ravenna, OH—Portage County Arpt., VOR–A, Amdt. 1
Sarasota (Bradenton), FL—Sarasota-Bradenton Arpt., VOR Rwy 22, Amdt. 4
Sarasota (Bradenton), FL—Sarasota-Bradenton Arpt., VOR Rwy 13, Amdt. 12
Sebring, OH—Tri-City Arpt., VOR Rwy 17, Amdt. 1.

§ 97.25 [Amended]

2. Section 97.25 is amended by originating, amending, or cancelling the following SDF–LOC–LDA SIAPs, *effective February 12, 1976.*

Fayetteville, AR—Drake Field, LOC Rwy 16, Amdt. 4
Hillsboro, OR—Portland-Hillsboro, Arpt., LOC–B, Amdt. 1

. . . effective February 5, 1976.

Battle Creek, MI—W. K. Kellogg Regional Arpt., LOC(BC) Rwy 4, Amdt. 8
Sarasota (Bradenton), FL—Sarasota-Bradenton Arpt., LOC(BC) Rwy 13, Amdt. 2

§ 97.27 [Amended]

3. Section 97.27 is amended by originating, amending, or cancelling the following NDB/ADF SIAPs, *effective February 5, 1976.*

Ashland, OH—Ashland County Arpt., NDB Rwy 18, Amdt. 1
Columbia, SC—Columbia Metropolitan Arpt., NDB Rwy 11, Amdt. 18
Erie, PA—Erie Int'l Arpt., NDB Rwy 24, Amdt. 12.
Greenville, NC—Pitt-Greenville Arpt., NDB Rwy 19, Amdt. 5
Hartford, CT—Hartford-Brainard Arpt., NDB–B, Amdt. 3
Oxford, OH—Miami University Arpt., NDB Rwy 4, Amdt. 5

. . . effective January 1, 1976.

Saipan Island, Mariana Is.—Saipan Int'l Arpt., NDB–A Orig.
Saipan Island, Mariana Is.—Kobler Arpt., NDB–A, Amdt. 1, Cancelled

§ 97.29 [Amended]

4. Section 97.29 is amended by originating, amending, or cancelling the following ILS SIAPs, *effective February 12, 1976.*

Bremerton—WA Kitsap County Arpt., ILS Rwy 19, Amdt. 3
Kalispell, MT—Glacier Park Int'l Arpt., ILS Rwy 1, Amdt. 1
Oklahoma City, OK—Will Rogers World Arpt., ILS Rwy 17R, Amdt. 2

. . . effective February 5, 1976.

Erie, PA—Erie Int'l Arpt., ILS Rwy 24, Amdt. 1
Knoxville, TN—McGhee Tyson Arpt., ILS Rwy 22R, Orig.

. . . effective January 29, 1976.

Kotzebue, AK—Ralph Wien Memorial Arpt., ILS/DME Rwy 8, Orig.

§ 97.31 [Amended]

5. Section 97.31 is amended by originating, amending, or cancelling the following RADAR SIAPs, *effective February 12, 1976.*

Oklahoma City, OK—Will Rogers World Arpt., RADAR–1, Amdt. 15

. . . effective February 5, 1976.

Erie, PA—Erie Int'l Arpt., RADAR–1, Amdt. 2

. . . effective January 29, 1976.

Tampa, FL—Tampa Int'l Arpt., RADAR–1, Amdt. 5

§ 97.33 [Amended]

6. Section 97.33 is amended by originating, amending, or cancelling the following RNAV SIAPs, *effective February 5, 1976.*

Anderson, SC—Anderson County Arpt., RNAV Rwy 23, Amdt. 2
East Hartford, CT—Rentschler Field, RNAV Rwy 22, Orig.
East Hartford, CT—Rentschler Field, RNAV Rwy 36, Orig.
Erie, PA—Erie Int'l Arpt., RNAV Rwy 24, Amdt. 3, Cancelled
Hilton Head Island, SC—Hilton Head Arpt., RNAV Rwy 3, Amdt. 1
Hilton Head Island, SC—Hilton Head Arpt., RNAV Rwy 21, Amdt. 1
Oxford, OH—Miami University Arpt., RNAV Rwy 4, Orig.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on December 18, 1975.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

JAMES M. VINES,
Chief, Aircraft Programs Division.

[FR Doc.75-34758 Filed 12-29-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE PRACTICES

PART 4—MISCELLANEOUS RULES

Requirements for Printed Documents

Section 4.2 sets forth the requirements as to form and filing of documents other than correspondence. Section 4.2(d)(3) pertains to printed documents, designating paper size of seven inches by ten inches with the printed line not to exceed four and three-quarter inches in length. The section does not designate the width of the left or right margin. A printed line of four and three-quarters inches on seven inch paper leaves two and one-quarter inches for margins. Section 4.2(d)(5) applies to all documents and des-

ignates one and one-half inches for the left margin and one inch for the right margin, totalling two and one-half inches for margins. Applying the margin designations of § 4.2(d)(5) to printed documents would require that the printed line not exceed four and one-half inches. To correct this inconsistency, the Federal Trade Commission announces the following amendment of § 4.2(d)(5) of Part 4, Subchapter A of Chapter I of Title 16 of the Code of Federal Regulations to read as follows:

§ 4.2 Requirements as to form and filing of documents other than correspondence.

* * * * *

(d) *Form.* * * *

(5) All documents must be mound on the left side. Except for printed documents, the left margin of each page must be at least one and one-half (1½) inches and the right margin at least one (1) inch.

* * * * *

(Section 6(g), 38 Stat. 721; (15 U.S.C. 46, sec. (a)(1)) 80 Stat. 383, (5 U.S.C. 552.))

By direction of the Commission dated December 19, 1975.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.75-34957 Filed 12-29-75;8:45 am]

[Docket C-2370]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Illinois Central Industries, Inc., et al.

Codification under 16 CFR Part 13 appears at 38 FR 10701, May 1, 1973.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

In the Matter of Illinois Central Industries, Inc., a corporation; and Midas-International Corporation, a corporation.

Order modifying an earlier order dated Mar. 26, 1973, 82 F.T.C. 1097, 38 FR 10707, by changing the compliance reporting requirements for paragraphs IIE and IIF from 30-day intervals to semi-annual reports on Dec. 15, 1975, and on June 15, 1976, after which only annual reports will be required in lieu of monthly reports with respect to the divestiture order.

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

Respondent, by letter dated September 12, 1975, which will be treated as a petition to reopen this proceeding, has requested that the requirement that it file compliance reports at 30-day intervals for Paragraphs IIE and IIF, contained in the order to cease and desist issued March 26, 1973 [82 F.T.C. 1097], be modified so as to require semiannual reports on December 15, 1975, and on June 15, 1976, and each calendar year thereafter.

The Commission has duly considered respondent's request and has determined that it should be granted.

It is ordered, That the proceeding be, and it hereby is, reopened.

It is further ordered, That the order to cease and desist be, and it hereby is, modified by requiring that the compliance reporting for Paragraphs IIE and IIF of the order be changed to a semiannual basis by submitting such reports on December 15, 1975, and on June 15, 1976, and thereafter for each calendar year in lieu of the monthly reports heretofore required with respect to the divestiture provisions of the order.

The order reopening and modifying order to cease and desist was issued by the Commission November 24, 1975.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.75-35003 Filed 12-29-75;8:45 am]

[1] Copies of the Order Reopening and Modifying Order to Cease and Desist, filed with the original document.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 76-1]

PART 145—MAIL IMPORTATIONS

Mail Examination

Section 145.2 of the Customs Regulations (19 CFR 145.2) provides that, with certain stated exceptions, all mail originating outside the Customs territory of the United States, whether sealed or unsealed, is subject to Customs examination. In part, section 145.2(c) of the Customs Regulations (19 CFR 145.2(c)) excepts from Customs examination letter mail known or believed to contain only correspondence or documents addressed to diplomatic missions or the officers thereof. No such exception is provided for similar mail addressed to consular posts.

Inasmuch as the Vienna Convention on Consular Relations, to which the United States is a signatory, clearly provides in paragraph 2 of Article 35 that the official correspondence of consular posts shall be inviolable, it is considered desirable to amend the Customs Regulations to reflect that the same exception from Customs examination that is currently granted to letter mail addressed to diplomatic missions or the officers thereof, shall be granted to letter mail addressed to consular posts or the officers thereof.

Accordingly, the first sentence of paragraph (c) of § 145.2 of the Customs Regulations (19 CFR 145.2(c)) is revised to read as follows:

§ 145.2 Mail subject to Customs examination.

* * * * *

(c) Letter mail known or believed to contain only correspondence or documents addressed to diplomatic missions, consular posts, or the officers thereof, or to international organizations designated by the President as public international organizations pursuant to the International Organizations Act (see section 148.87(b) of this chapter). * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

Because this amendment merely conforms the Customs Regulations to the terms of the Vienna Convention on Consular Relations, to which the United States is a signatory, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall become effective, December 30, 1975.

Approved: December 16, 1975.

VERNON D. ACREE,
Commissioner of Customs.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-35042 Filed 12-29-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75N-0368]

PART 20—FROZEN DESSERTS

Mellorine; Stay of Standard of Identity

Notice is given that the regulation (21 CFR 20.8) establishing a definition and standard of identity for "mellorine" frozen dessert products, published in the FEDERAL REGISTER of July 25, 1974 (39 FR 27128), was stayed pursuant to section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) by the filing of objections and requests for a hearing.

The Commissioner advises that he will rule on the objections and requests for hearing in the near future; the ruling will be published in the FEDERAL REGISTER. Accordingly, the definition and standard of identity for mellorine is stayed until the Food and Drug Administration completes all further action necessitated by the objections and requests for hearing and sets a new effective date to be published in the FEDERAL REGISTER.

(Sec. 701(e), 70 Stat. 919 (21 U.S.C. 371(e).))

Dated: December 22, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-34977 Filed 12-29-75;8:45 am]

PART 30—TABLE SIRUPS

Standards of Identity; Confirmation of Effective Date of Order; Correction

In FR Doc. 75-13024, appearing at page 21723 in the issue for Monday, May 19, 1975, in the second column of page 21724, the last line of paragraph 2. (re-

ferring to an amendment of § 30.3(c)) which reads " 'sugar cane'." is corrected to read " 'cane sirup'."

Dated: December 22, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-34978 Filed 12-29-75;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (44-759V) filed by Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206 North, Somerville, NJ 08876, proposing that the safe and effective use of bambermycins in the feed of broiler chickens does not require a tolerance for residues of the drug in the uncooked edible tissues of the animal. The data contained in the original submission show that no residues are reflected from the conditions of its use or any foreseeable conditions of misuse. Therefore, in accordance with § 556.1(a)(4) (21 CFR 556.1(a)(4)), a tolerance is deemed unnecessary pursuant to use of this drug in broiler chicken feed. The supplemental application is approved, effective December 30, 1975.

The Commissioner is amending Parts 556 and 558 (21 CFR Parts 556 and 558) respectively by deleting §§ 556.80 and 558.95(d) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 556 and 558 are amended as follows:

§ 556.80 [Removed]

1. Part 556 is amended by deleting § 556.80 *Bambermycins.*

§ 558.95 [Amended]

2. Part 558 is amended in § 558.95 by deleting paragraph (d) and marking it "Reserved."

Effective date. This amendment shall be effective December 30, 1975.

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

Dated: December 19, 1975.

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

[FR Doc.75-34980 Filed 12-29-75;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin and Sulfamethazine

The Commissioner of Food and Drugs has evaluated a new animal drug application (97-615V) filed by Golden Sun Feeds, Inc., Estherville, IA 51334, proposing safe and effective use of tylosin and sulfamethazine premix used in manufacturing swine feeds. The application is approved, effective December 30, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 2.120), Part 558 (formerly Part 135e, prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) is amended in § 558.630 (formerly § 135e.36) by adding paragraph (b)(4), to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(4) To 021780: 2 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. This order shall be effective on December 30, 1975.

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

Dated: December 19, 1975.

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

[FR Doc.75-34979 Filed 12-29-75;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 8—PREFERENCE IN FEDERAL PROCUREMENT UNDER DEFENSE MANPOWER POLICY NO. 4 AND EXECUTIVE ORDER 10582

On October 7, 1975 at 40 FR 46316 the Department of Labor proposed to amend 29 CFR 8.2 *Definitions.* by deleting the definition of "disadvantaged individual" at 29 CFR 8.2(d) and by substituting therefor a definition of "economically disadvantaged individual". The Department also proposed to substitute the term "economically disadvantaged individual" throughout 29 CFR Part 8 wherever the term "disadvantaged individual" appeared. The purpose of the proposal was to standardize this definition for all employment and training programs. Interested persons were invited to submit data, views and arguments on the proposal until November 6, 1975. Only one comment was received. The comment suggested that the word "family" in the proposed definition of "economically disadvantaged individual" also be defined to indicate that a "family" will be considered to be a group of individuals in which the members are actually providing economic support to each other or contributing services to the household. The Department has not accepted this suggestion because the suggested language is too vague and imprecise, and because, if it were adopted, it would defeat the effort towards standardization upon which the proposal was based.

On October 31, 1974 at 39 FR 38387 the Department proposed to amend 29 CFR 8.3 and 29 CFR 8.4 by substituting for the term "work force", used in both of those sections, the term "labor force". The purpose of the proposed change was to bring the terminology in those sections in line with the terminology which has been used by the Bureau of Labor Statistics since March of 1974. Interested persons were invited to submit comments on the proposal by December 2, 1974. No comments, however, were received.

In consideration of the foregoing the proposals of October 7, 1975 and October 31, 1974 are hereby adopted and 29 CFR Part 8, effective December 30, 1975, is amended to read as follows:

Sec.
8.1 Purpose.
8.2 Definitions.
8.3 Criteria for areas of substantial unemployment.
8.4 Criteria for areas of persistent unemployment.
8.5 Termination of classification.
8.6 Publication or certification.
8.7 Classification of sections of concentrated unemployment or underemployment and certification of eligible firms.
8.8 Order of preference.
8.9 Certificate of eligibility.

AUTHORITY: The provisions of this Part 8 issued under 47 Stat. 1520, 63 Stat. 1024; 41 U.S.C. 10a-10d, E.O. 10582, 3 CFR, 1954-1958 Comp., p. 230; E.O. 10480, E.O. 10773, 32A CFR Ch. 1, DMP 4.

§ 8.1 Purpose.

(a) This part implements the responsibilities of the Secretary of Labor in determining sections of concentrated unemployment or underemployment, and areas of persistent or substantial labor surplus in accordance with Defense Manpower Policy No. 4 of the Office of Emergency Planning (32A CFR Ch. 1, DMP 4), and areas of substantial unemployment, in accordance with Executive Order 10582 (3 CFR 1954-58 Comp., P. 230) issued pursuant to the Buy American Act (41 U.S.C. 10a et seq.).

(b) Defense Manpower Policy No. 4 provides that preference be given in the placement of Federal Government contracts and facilities to sections of concentrated unemployment or underemployment, and areas of persistent or substantial labor surplus with preference being given in accordance with regulations prescribed by the Secretary of Labor. The Secretary of Labor is directed to classify sections of concentrated unemployment or underemployment, and areas having a persistent or substantial surplus of labor, under standards to be established by the Secretary, and to certify to the existence of a persistent or substantial labor surplus in areas not meeting the minimum size requirements for classification. The Secretary of Labor is also directed to certify employing establishments which comply with regulations of the Secretary for the employment of economically disadvantaged individuals.

(c) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits rejection by executive agencies of any foreign bid or offered price for materials in any situation in which the domestic low bidder would produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor, during such period as the President determines that such preference would be in the national interest.

§ 8.2 Definitions.

As used in this part:

(a) "Labor area" means a geographical area consisting of a central city or cities and surrounding territory within commuting distance in which there is a concentration of economic activity or labor demand, and workers can generally change jobs without changing their residences.

(b) "Substantial labor surplus." An area is one of substantial labor surplus for purposes of Defense Manpower Policy No. 4 if it has substantial unemployment in accordance with criteria specified in § 8.3.

(c) "Persistent labor surplus." An area is one of persistent labor surplus under Defense Manpower Policy No. 4 if it has persistent unemployment in accordance with the criteria specified in § 8.4.

(d) "Economically Disadvantaged Individual." An individual shall be considered as economically disadvantaged is a member of a family (1) which receives cash welfare payments, or (2) whose annual income in relation to family size and location does not exceed the most recently established poverty levels determined in accordance with criteria established by the Office of Management and Budget (OMB)."

(e) "Employing Establishment." An employing establishment is an individual, industrial facility, plant, mill, mine, or other business operation located at a single physical site, where production, manufacturing, or other industrial operations are performed. Each branch or subsidiary unit of a large corporate entity may be considered an individual establishment, except that all such units in the same physical location shall be considered a single establishment.

§ 8.3 Criteria for areas of substantial unemployment.

(a) The Secretary will classify a labor area as one of substantial unemployment if (1) he finds that its rate of unemployment is 6 percent or more of the area labor force, discounting temporary or seasonal factors, and (2) he anticipates that the rate of unemployment during the next two months will remain at 6 percent or more, discounting temporary or seasonal factors.

(b) For purposes of Executive Order 10582, any area which has been determined to be one of persistent unemployment in accordance with § 8.4 will be deemed to be an area of substantial unemployment. Any employing establishment certified in accordance with § 8.7(b) will be deemed to be located in an area of substantial unemployment.

§ 8.4 Criteria for areas of persistent unemployment.

The Secretary will classify as an area of persistent unemployment any labor area, municipality of 250,000 or more population according to the latest available Census data, or county in which he finds the rate of unemployment during the most recent calendar year is 6 percent or more of its labor force and that the rate of unemployment in such area has:

(a) Averaged 6 percent or more and been at least 50 percent above the national average for 3 of the preceding 4 calendar years, or

(b) Averaged 6 percent or more and been at least 75 percent above the national average for 2 of the preceding 3 calendar years, or

(c) Averaged 6 percent or more, and been at least 100 percent above the national average for 1 of the preceding 2 calendar years.

§ 8.5 Termination of classification.

(a) The Secretary of Labor will terminate the classification of an area of substantial unemployment after any month in which he finds (1) it no longer has an unemployment rate of 6 percent, discounting temporary or seasonal factors, and (2) that the rate of unemployment anticipated during the next 2 months is less than 6 percent, discounting temporary or seasonal factors.

(b) During the first quarter of each calendar year the Secretary of Labor will review the annual average rate of unemployment during the previous calendar years in areas which were classified as areas of persistent unemployment, and shall terminate not later than June 30 of that year the classification of those areas which no longer meet the criteria set forth in § 8.4.

(c) The Secretary of Labor shall terminate the designation of a section of concentrated unemployment or underemployment whenever he finds that the conditions of unemployment or underemployment have improved to the extent that the designation is no longer warranted.

§ 8.6 Publication or certification.

The Secretary of Labor will publish at regular intervals a list of establishments certified in accordance with § 8.7 and the list of sections of concentrated unemployment or underemployment and areas of persistent or substantial unemployment: *Provided, however,* That in the case of an area of less than 1,500 population, he will not publish but on request will authorize the appropriate State Employment Security Agency to certify that such area is one of substantial or persistent unemployment if it meets the qualifying conditions set forth in § 8.3 or § 8.4 of this part.

§ 8.7 Classification of sections of concentrated unemployment or underemployment and certification of eligible establishments.

(a) The Secretary of Labor will classify as sections of concentrated unemployment or underemployment appropriate sections of States or "labor areas."

(b) Employing establishments in or near such classified sections of concentrated unemployment or underemployment and employing establishments in areas of persistent or substantial unemployment shall be certified by the Secretary as eligible for preference in the placement of Federal Government contracts or subcontracts under Defense Manpower Policy No. 4 provided that such establishments have agreed to employ, in accordance with plans approved by the Secretary of Labor, a proportionate number of economically disadvantaged individuals, residing within the classified sections or areas, who have been identified and referred to the employing establishments by the local State Employment Service Office, the local Concentrated Employment Program Sponsor or by other authorized community agencies. Employing establishments so certified which will perform a substantial portion of a Federal Government contract, or other firms which will place a substantial portion of the Federal Government contract with employing establishments certified pursuant to this paragraph (b), shall obtain preference in accordance with § 8.8.

(c) Employing establishments located in any area shall be certified by the Secretary as eligible for preference in the placement of Federal Government contracts or subcontracts under Defense Manpower Policy No. 4 provided that such establishments have agreed to employ, in accordance with plans approved by the Secretary of Labor, a proportionate number of economically disadvantaged individuals who have been identified and referred to the employing establishments by the local State Employment Service Office, the local Concentrated Employment Program Sponsor or by other authorized community agencies. Employing establishments so certified which will perform a substantial portion of a Federal Government contract, or other firms which will place a substantial portion of the Federal Government contract with employing establishments certified pursuant to this paragraph (c), shall obtain preference in accordance with § 8.8.

§ 8.8 Order of preference.

The order of preference for the placement of contracts under Defense Manpower Policy No. 4 is as follows:

(a) Employing establishments or other firms eligible for preference in accordance with paragraph (b) of § 8.7;

(b) Employing establishments or other firms eligible for preference in accordance with paragraph (c) of § 8.7;

(c) Employing establishments or other firms which will perform or cause to be

[1] 35 FR 2387, Feb. 8, 1970.

performed a substantial portion of a Federal Government contract in an area of persistent or substantial unemployment.

§ 8.9 Certificates of eligibility.

(a) The Secretary of Labor's approval of an establishment's plan to employ economically disadvantaged individuals shall be evidenced by a certificate issued to the employing establishment by the appropriate local office of the State Employment Security Agency. This local office will determine whether the establishment qualifies for the certificate and issue it where appropriate. The Secretary of Labor, or his authorized representative, may, in all cases, review and, if necessary, change the determination made by the local State Employment Security Agency either granting or denying a certificate of eligibility. Any establishment which is denied a certificate may request a reconsideration or review by the Secretary, or his authorized representative, by writing to the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, and setting forth reasonable grounds therefor.

(b) Certificates of eligibility shall be valid for a period of 6 months, or until recalled by the State Employment Security Agency, or surrendered by the Employer, whichever is earliest.

(c) No certificate which would afford an employing establishment first preference under § 8.8 shall be issued to any establishment whose plans for the employment of economically disadvantaged individuals do not provide that at least 25 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract whichever is later shall be economically disadvantaged individuals identified and referred to the employing establishment pursuant to § 8.7 (b).

(d) No certificate which would afford an employing establishment second preference under § 8.8 shall be issued to any establishment whose plans for the employment of economically disadvantaged individuals do not provide that at least 15 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract whichever is later shall be economically disadvantaged individuals identified and referred to the employing establishment pursuant to § 8.7(c).

Signed at Washington, D.C. this 23d day of Dec., 1975.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.75-35053 Filed 12-29-75;8:45 am]

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart R—Advisory Committees

By virtue of the authority vested in it by the National Labor Relations Act approved July 5, 1935, and by section 8 of the Federal Advisory Committee Act approved October 6, 1972, the National Labor Relations Board hereby promulgates the following rule which it finds necessary to carry out the provisions of said Acts.

Subpart R, containing § 102.136 is added to 29 CFR Part 102 as follows:

Subpart R—Advisory Committees

§ 102.136 Establishment and utilization of advisory committees.

Advisory committees may from time to time be established or utilized by the agency in the interest of obtaining advice or recommendations on issues of concern to the agency. The establishment, utilization, and functioning of such committees shall be in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. I, sections 1–15, and Office of Management and Budget Circular A–63 (rev. March 27, 1975), Advisory Committee Management Guidance, 39 FR 12389–12391, to the extent applicable.

(49 Stat. 449 (29 U.S.C. 151–166, as amended by act of June 23, 1947) 61 Stat. 136 (29 U.S.C. Supp. 151–167), act of October 22, 1951, 65 Stat. 601 (29 U.S.C. 158, 159, 168), and act of September 14, 1959 73 Stat. 519; 29 U.S.C. 141–168); 86 Stat. 770; (5 U.S.C. appendix I, section 1 et seq.))

Dated, Washington, D.C., December 22, 1975.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.75-34935 Filed 12-29-75;8:45 am]

CHAPTER XXV—OFFICE OF EMPLOYEE BENEFITS SECURITY, DEPARTMENT OF LABOR

[ERISA IB RD 75-1]

PART 2556—INTERPRETIVE BULLETINS RELATING TO REPORTING AND DISCLOSURE

Independence of Accountant Retained by Employee Benefit Plan

In FR Doc. 75-31318, appearing at pages 53998-99 in the FEDERAL REGISTER of November 20, 1975, subparagraph (3) appearing on page 53999 is corrected by deleting the word "or" immediately after the word "member" in the first line and inserting the word "of" in its place.

Also, the first full paragraph appearing on page 53999 is corrected in the 23rd and 24th lines by eliminating the remainder of the sentence after the word "accounting" and inserting in its place the words "firm shall not impair the accountant's or accounting firm's independence."

NOTE: The text of FR Doc. 75-31318 was not codified for the Code of Federal Regulations.

Signed at Washington, D.C. this 22nd day of December, 1975.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.75-35043 Filed 12-29-75;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

Sequoia and Kings Canyon National Parks, California; Camper Food Storage

A proposal was published on page 45845 of the FEDERAL REGISTER of October 3, 1975, to amend § 7.8 of the Code of Federal Regulations. The purpose of this amendment is to require bear resistant storage of food stuffs in camp areas.

Interested persons were given 20 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. One comment, generally supporting the proposed amendment, has been received. No objections have been received and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall take effect January 29, 1976.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 41 Stat. 732; 16 U.S.C. 61, 54 Stat. 41; 16 U.S.C. 80(d))

Section 7.8 is amended to add paragraph (e)(1) to read as follows:

§ 7.8 Sequoia and Kings Canyon National Parks.

* * * * *

(e) *Camping.* (1) All food or similar organic material, must be kept completely sealed in a vehicle or camping unit that is constructed of solid, nonpliable material, or must be suspended at least 10 feet above the ground and 4 feet horizontally from any post or tree trunk. This restriction does not apply to food that is being eaten or is being prepared for eating.

* * *

GENE V. DAUGHERTY,
Acting Superintendent, Sequoia and Kings Canyon National Parks.

[FR Doc.75-34984 Filed 12-29-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 473-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards; Corrections

In the FEDERAL REGISTER of Tuesday, September 9, 1975, the following changes are made:

1. On page 41948, under "Subpart F—California", action number 5, that part of the geographical composition of the Sacramento Valley Air Quality Maintenance Area which reads, "That portion of Placer County lying in the Sacramento Valley Air Basin as defined in the plan," is changed to read, "The Valley Area of Placer County. This is all the area in Placer County which lies west of the

easterly line of Range 7 East, Mount Diablo Base and Meridian, and all of the area in Placer County which lies south of the northerly line of Township 11 North, Mount Diablo Base and Meridian."

2. On page 41951, under "Subpart HH—New York," in § 52.1688, the following changes are made:

a. In paragraph (a)(1)(ii), relating to the geographical composition of the Binghamton Air Quality Maintenance Area, under "Broome County (part)," add "Town of Maine" and "Town of Dickinson."

b. In paragraph (a)(6)(ii), relating to the geographical composition of the Rochester Air Quality Maintenance Area, under Ontario County (part), "Town of Formington" is changed to read, "Town of Farmington."

Dated: December 19, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-34939 Filed 12-29-75;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 474-3]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCE

Delegation of Authority to State of Maine

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the State of Maine on November 3, 1975, EPA is today amending 40 CFR 60.4, *Address*, to reflect this delegation. A Notice announcing this delegation is published today in the FEDERAL REGISTER.[1] The amended § 60.4, which adds the address of the Maine Department of Environmental Protection to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on October 7, 1975, and it serves no purpose to delay the technical change of this addition to the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-6)

Dated: December 22, 1975.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

[1] See FR Doc. 75-35063 appearing elsewhere in the Notices section of today's FEDERAL REGISTER.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by revising subparagraph (U) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(U) State of Maine, Department of Environmental Protection, State House, Augusta, Maine 04330.

* * * * *

[FR Doc.75-35065 Filed 12-29-75;8:45 am]

[FRL 474-2]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of Maine

Pursuant to the delegation of authority for National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of Maine on November 3, 1975, EPA is today amending 40 CFR 61.04, *Address*, to reflect this delegation. A Notice announcing this delegation is published today in the FEDERAL REGISTER.[1] The amended § 61.04, which adds the address of the Maine Department of Environmental Protection to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on October 7, 1975, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of Section 112 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-7)

Dated: December 22, 1975.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04 paragraph (b) is amended by revising subparagraph (U) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(U) State of Maine, Department of Environmental Protection, State House, Augusta, Maine 04330.

* * * * *

[FR Doc.75-35064 Filed 12-29-75;8:45 am]

[1] See FR Doc. 75-35063 appearing elsewhere in the Notices section of today's FEDERAL REGISTER.

SUBCHAPTER E—PESTICIDE PROGRAMS

[PP6F1652 & PP6F1607/R72; FRL 474-7]

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

3,5-Dimethyl-4-(methylthio)phenyl methylcarbamate

On May 8, 1975, notice was given (40 FR 20129) that Mobay Chemical Corp., Chemagro Agricultural Division, PO Box 4913, Hawthorn Rd., Kansas City MO 64120, had filed a pesticide petition (PP 6F1607) with the Environmental Protection Agency (EPA). This petition proposed the establishment of tolerances for residues of the insecticide 4-(methylthio)-3,5-xylyl methylcarbamate in or on the raw agricultural commodities cherries at 15 parts per million (ppm); apples and peaches at 10 ppm; pears at 6 ppm; the meat, fat, and meat byproducts of cattle, sheep, goats, swine, and horses at 0.05 ppm; and milk at 0.005 ppm. Mobay subsequently amended the petition by increasing the tolerances for cherries from 15 to 25 ppm and for peaches from 10 to 15 ppm and by withdrawing the requested tolerance proposals for apples, pears, and milk, and the meat, fat, and meat byproducts of cattle, sheep, goats, swine, and horses.

Mobay Chemical Corp. also submitted a petition (FAP 5H5083) which proposed the establishment of a food additive regulation (21 CFR 123) permitting the use of the insecticide on apples with a food additive tolerance of 12.5 ppm in apple juice (40 FR 20129). This petition was withdrawn without prejudice in accordance with the regulations pertaining to section 409 of the Federal Food Drug, and Cosmetic Act (40 FR 51081).

On August 22, 1975, the EPA gave notice (40 FR 36748) that Mobay Chemical Corp. had filed another pesticide petition (PP 6F1652) which proposed the establishment of additional tolerances for this pesticide or on the raw agricultural commodities corn (field, pop, and sweet) and corn forage and fodder at 0.03 ppm when the pesticide is used as a bird repellent. No comments were received by the EPA in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought, and there is no reasonable expectation of residues in milk, meat, eggs, and poultry as delineated in 40 CFR 180.6(a)(3). It has, therefore, been determined that tolerances should be established for the pesticide in 40 CFR 180 under Section 180.320 using the acceptable chemical name for this pesticide 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate. Tolerances for this pesticide and its cholinesterase-inhibiting metabolites established by amending 40 CFR 180 as follows will protect the public health.

Any person adversely affected by this regulation may, on or before January 28, 1976, file written objections with the Hearing Clerk, Enivronmental Protection Agency, 401 M St. SW, East Tower, Room 1019, Washington DC 20460. Such

objections should be submitted in quintuplicate and specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requsted, 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.

Effective on December 29, 1975, Part 180, Subpart C, is amended by adding § 180.320.

(Section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(a)(d)))

Dated: December 23, 1976.

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

Part 180, Subpart C, is amended by adding the § 180.320 as follows. (NOTE: K+CWHR=Kernels plus cob with husk removed.)

§ 180.320 3,5-Dimethyl-4-(methylthio) phenyl methylcarbamate; tolerances for residues.

Tolerances are established for residues of the pesticide 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on raw agricultural commodities as follows:

Commodity:	*Parts per million*
Cherries	25.
Corn, fodder	.03
Corn, forage	.03
Corn, fresh (including sweet) (K+CWHR)	.03
Corn, grain, field	.03
Corn, grain, pop	.03
Peaches	15.

* * * * *

[FR Doc.75-35070 Filed 12-29-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-7—ST. LOUIS PLAN

Notice of Extension

On July 10, 1971, the Department of Labor published the St. Louis Plan (36 FR 12978). The St. Louis Plan is intended to implement the provisions of Executive Order 11246, as amended, and the rules and regulations issued pursuand thereto, requiring a program of equal employment opportunity by Federal contractors and subcontractors in the St. Louis area, which includes the city of St. Louis, and St. Louis County, Missouri. The present St. Louis Plan expires on December 31, 1975. Therefore, in order to ensure positive efforts toward the elimination of minority underutilization in the St. Louis area construction industry, the establishment of a Revised St. Louis Plan will be proposed and, such a proposal will be published in the FEDERAL REGISTER prior to its effective date. Due to the requirement that the proposed Revised St. Louis Plan be published for comment for at least 30 days prior to promulgation as a final rule it is necessary that the current St. Louis Plan be extended until the proposed Revised St. Louis Plan becomes effective.

For the reason stated above, I find that it is contrary to the public interest to publish this extension for comment, and for the same reason I find there is good cause for this amendment to become effective December 30, 1975.

To effectuate the extension of the St. Louis Plan Part 60-7 is revised as follows:

1. Section 60-7.14(b) is revised as follows:

§ 60-7.14 The impact of the plan upon the existing labor force.

* * * * *

(b) *Timetable.* The original goals of the St. Louis Plan were developed in an effort to provide an affirmative action program and ranges for utilization of minority manpower which employers can meet by hiring productive, trained minority craftsmen. Accordingly the St. Louis Plan was developed to cover five years. Upon the expiration of the fifth year on December 31, 1975 it is found and determined that in order to effect equal employment opportunity to the fullest extent, the standards of minority utilization contained in the St. Louis Plan, including the goals for the year ending December 31, 1975 shall be applicable until a new Revised St. Louis Plan is promulgated.

* * * * *

2. Section 60-7.30—Appendix A is amended in the table for Jan. 1 through Dec. 31, 1975 under paragraph 2 of "Requirements, Terms and Conditions" by deleting the headings "From Jan. 1, 1975" and "Until Dec. 31, 1975" and substituting "From Jan 1, 1975 until a new Revised St. Louis Plan is promulgated." as follows:

§ 60-7.30 Appendix A.

* * * * *

From Jan. 1, 1975 until a revised St. Louis plan is promulgated		
Asbestos Workers	5.2	5.7

* * * * *

3. The first portion of Appendix A, Section 60-7.30, wherein the bidder submits its goals for the trades listed therein, as amended by deleting the phrase "from January 1, 1975, until December 31, 1975" and substituting "from January 1, 1976 until a Revised St. Louis Plan is promulgated."

* * * * *

Effective date: This amendment shall be effective December 30, 1975.

Signed at Washington, D.C. this 23rd day of December, 1975.

ROBERT C. CHASE,
Acting Assistant Secretary for Employment Standards.

GEORGE F. TRAVERS,
Acting Director, Office of Federal Contract Compliance Programs.

[FR Doc.75-35052 Filed 12-29-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20495; FCC 75-1359]

PART 1—PRACTICE AND PROCEDURE

Agreements Between Broadcast Licensees and the Public

1. On June 10, 1975, the Commission released a "Proposed Policy Statement and Notice of Proposed Rulemaking Re: Agreements Between Broadcast Licensees and the Public," Docket 20495, FCC 75-633, 40 FR 25689. Twenty comments and four reply comments were filed by a variety of licensees and public interest groups.[1] The background of this proceeding is sketched below, followed by a summary of the comments received and a statement of policy.

BACKGROUND

2. For many years the Commission has encouraged affirmative dialogue between broadcast licensees and the public they serve, for "[t]he principal ingredient of [the licensee's obligation to serve the public interest, convenience, and necessity] consists of a diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his service area." Report and Statement of Policy Re: Commission En Banc Programming Inquiry, 25 FR 7291, 7294 (1960). More recently, we observed that the increase in petitions to deny broadcast applications—based on the alleged failure of licensees to respond adequately to the problems and needs of significant portions of the public—"re-emphasized the need both to ensure that licensees remain conversant with and attentive to community problems throughout the license period, and citizens are encouraged to engaged in more

[1] See Appendix A. The period for comments expired July 25, 1975, and for reply comments August 11, 1975. We accept the late-filed comments of Mrs. Elaine Donnelly, NAACP Legal Defense and Educational Fund, Inc., National Black Media Coalition, National Citizens Committee for Broadcasting, Office of Communication of the United Church of Christ, and the St. Louis Broadcast Coalition.

continuous dialogue with licensees in order to promote local resolutions of complaints as they arise." "Final Report and Order," Docket 19153, 43 FCC 2d 1, 8 (1973).

3. One outgrowth of increased contact between licensees and their audiences has been informal negotiations and, in some cases, formal agreements about aspects of station operations of concern to the community. However, we have found that some agreements attempt to yield licensee control to essentially private interests, contrary to the scheme of the Communications Act, which requires that the licensee alone must assume responsibility for ensuring that its station operates in the public interest. In order to clarify licensee and citizen obligations respecting agreements, we opened this proceeding.

THE COMMISSION PROPOSAL

4. The agreements policy we proposed [2] was based on an assumption that licensees and members of the public proceed from good faith in their discussions, and on the principles of (a) the value of local dialogue, (b) the purely voluntary nature of agreements, (c) the preservation of the licensee's nondelegable responsibility to serve the public, and (d) the advantage of minimal government presence in local discussion. Recognizing that our oversight was required, but should be limited, we proposed to take cognizance of citizen agreements only to the following extent:

(a) If asked to determine whether the agreement is contrary to applicable statutes, rules, or policies, we would review it in conformity with the policies expressed in our policy statement.

(b) Substantive agreement terms incorporated in a broadcast application would assume the status of representations to the Commission, and would be treated as are all promises of future performance.

5. We proposed not to take cognizance of oral agreements, because of likely difficulties in establishing their terms. We proposed amending Section 1.526 of our rules to require local filing of agreements. And we advised that the policies we proposed would apply on an interim basis to any agreements entered into or submitted for Commission review after issuance of the Proposed Policy Statement, that earlier agreements would be interpreted consistent with these polices, and that the policies would apply to any pending complaint concerning a licensee's implementation of a previously filed agreement. Since the chief ground on which we proposed to reject agreements was the delegation of nondelegable licensee discretion, we set out a few examples of such improper agreement terms.

SUMMARY OF COMMENTS

6. *Local dialogue.* The commenters (fully identified in Appendix A) unanimously endorse the importance of dialogue between broadcasters and local citizens, and most see value in citizen agreements. None would ban them. However, CBS complains that "more often than not the 'citizens' group' is neither representative of the public at large, nor even typical of the needs and desires of the very minority interest which the group purports to represent," and that demands of some groups are often contrary to the public interest. Mrs. Donnelly opposes the proliferation of agreements with activist groups "who represent no one but themselves." And Worldvision suggests that an agreement "should not bind the licensee to present programming to satisfy only a vocal, nonrepresentative group."

7. Several broadcasters urge a clear statement that licensees are not under any obligation or duty to negotiate toward or conclude an agreement. Storer also suggests a statement "that the areas of non-delegable duties which may not be restricted * * * may also not be negotiated." Orion asks us to state that licensees "have no duty to respond to citizen group demands to 'negotiate' or 'consummate an agreement.'" The National Black Media Coalition (NBMC) contends that "a broadcaster's refusal to meet [citizen groups] without explanation * * * should raise an issue of an inadequate ascertainment," and that "the failure to engage meaningfully in discussions of station performance should be an issue cognizable by [the] Commission."

8. *Filing of agreements.* There was no dispute with the proposed amendment of Section 1.526 of our rules to require local filing of citizen agreements, but considerable comment about what additional measures, if any, should be required. NBMC would require that all "agreements with commercial parties that have any substantial effect on the broadcaster's public service obligations" also be made public. The United Church of Christ (UCC) would include contracts with "networks, program syndicators, advertisers, management and programming consultants and others who provide program matter or otherwise control program content," and union agreements. ABC feels citizen agreements should be filed with the Commission (as well as locally) "for orderliness and convenience of reference." The National Organization for Women (NOW) proposes that "all citizens agreement[s] constitute representations upon which the Commission can rely and should be made part of the most recent license application." No commenter objects to filing agreements with the Commission. CBS and Worldvision oppose the suggestion that we require local publication of citizen agreements, CBS claiming that such a requirement is "burdensome and unnecessary." On the other hand, Mrs. Donnelly asks for wide disclosure of citizen agreements, and an obligation "to seek out opposing groups if [a licensee is] considering the signing of an exclusive contract with a particular group."

9. *Terms of agreements.* Several commenters object to limitations on a licensees' voluntary delegation of discretion in citizen agreements. The National Citizens Committee for Broadcasting (NCCB) distinguishes responsibility for making operating decisions from accountability for them; points to the common practice of delegating responsibility to employees, program suppliers, and others; and concludes the Commission "must either attempt to prevent broadcaster delegation at all levels * * * or * * * abandon this view as unworkable" and permit delegation of responsibility by means of citizen agreements. NBMC submits that "the Commission's policies and interpretation cannot discriminate in favor of commercial contracts and against citizen agreements," claiming that various common trade agreements (network affiliation and syndication contracts, for example) "give much of the discretion of station operation and programming content in fact to parties other than the licensee." Several commenters argue that any proposal that would be acceptable in a broadcast application should not be offensive simply because it is based on a citizen agreement. The Public Interest Research Group (PIRG) urges adoption of a policy permitting extensive licensee discretion to "bind its discretion," but with flexibility to deviate from commitments "where compliance with the agreement would be commercially impracticable or no longer in the public interest," or under other circumstances expressly stated in the agreement. UCC says that "the licensee should be free to make changes in its programming which are necessary to keep abreast of changing community needs and problems," and commends agreement terms requiring "advance [licensee] consultation with the affected groups in the service area and advance notice to the Federal Communications Commission stating the reasons for the departure," as a means of making agreements meaningful to the parties.

10. Five of the broadcast commenters call for requirement of an express agreement term reserving to the licensee flexibility to deviate from agreement commitments when in its judgment the public interest requires, with several stating that such provisions are the practice in trade agreements. Some would apply such a provision to any existing agreements which do not so provide. NCCB prefers that such a savings clause be an implicit part of every agreement, rather than a required express term. A number of commenters request a fuller explanation of what would constitute a "fixed determination, binding and unchangeable," contrary to the proposed policy. Several encourage us to provide additional, more specific examples than those set out in paragraph 15 of the Proposed Policy Statement. NOW contends that, "con-

[2] We decided to state policies about citizen agreements rather than adopt specific rules because of the licensee's inherent discretion to agree or not, as it chooses, and to change an agreement, once made. Moreover, we were concerned that any rules which might be devised would be so detailed and cumbersome as to distract the parties from focusing their efforts on resolving their legitimate differences.

trary to the Commission's implication, specificity in a citizen agreement is not to be condemned as an impermissible delegation of responsibility." Metromedia objects to our proposal to interpret "existing agreements in a manner consistent with . . . the fundamental principle that the licensee has a non-delegable responsibility over the programming and operation of its station," in light of our note elsewhere in the Proposed Policy Statement that "in cases where the licensee improperly has abdicated its responsibility, it will be our obligation to consider the licensee's fitness to serve as a public trustee."

11. Metromedia asks us to require that agreements indicate expressly how they are consistent with the public interest, either by a showing that the citizen group is reasonably representative of the station's service area, or by a statement "that the racial, sexual or interest group involved was entitled to privileged treatment (for specifically enumerated reasons) and that such special treatment would not disadvantage the other elements of the community (again listing specific reasons)." Metromedia also would require that the subject matter of the agreement relate to the grievances of the group involved. Worldvision asks us to state that licensees cannot inflexibly bind themselves not to present certain programs. Orion contends that EEOC conciliation agreements can inflexibly limit a licensee's operating discretion (by a hiring schedule, for example), just as citizen agreements can, and should be subject to the same Commission restrictions recognizing final licensee discretion. NOW argues that the Commission "does not have the authority to dictate to the EEOC the contents of its conciliation agreements with licensees."

12. *Review and enforcement.* There was little reaction to our proposal to take cognizance of citizen agreements only when incorporated in a licensee's renewal or other application (see paragraph 4, above). Three commenters agree that the Commission should not review every citizen agreement. The National Association of Broadcasters (NAB) observes that the proposal may not effectively limit the number of agreements considered, since review occurs under conditions determined by the parties, but it suggests no method for limiting their submission for review.

13. Our proposal not to take cognizance of oral agreements also received little comment. NBC says:

> [T]here is the problem of identifying from among the totality of licensee-community dialogue, those discussions which constitute "agreements" which have to be filed. A licensee may talk to an individual or group and state it expects to continue to carry a particular program or series, thereby satisfying the group. Or a group may request a licensee to carry a new series or adjust its employment recruiting procedures and the licensee may agree to do so or to explore that possibility, thereby satisfying the group. The Notice itself recognizes that these discussions and exchanges are often not precisely recorded in writing.

NBC believes that any rules adopted by the Commission should not be worded in terms of requiring the filing of all such agreements, but rather in terms of not giving recognition to agreements except insofar as they or their substantive provisions to which the station is committed have been filed with the Commisaion and placed in the sation's public information file. This approach will take care of the more usual situation where the group's request or complaint has been accommodated in the application itself or in an amendment thereto.

Mrs. Donnelly opposes "allowing unwritten agreements, which cannot be scrutinized by the general public * * * The F.C.C. has an affirmative duty to prevent such secrecy and undisclosed bias in a society where the free and unfettered transmission of ideas is a necessity."

14. Many more comments were received on the subject of enforcement of the policy statement and terms of any agreements. With respect to the former, most commenters urge us to defer as much as possible to the discretion of licensees as to what agreement terms are in the public interest. PIRG would reject an agreement "only if its terms are clearly not in the public interest." Worldivision suggests the following standards for evaluating agreements:

(1) Whether [agreement terms affecting programming constitute] an egregious abdication of the licensee's responsibility to make continuing program judgments; and

(2) Whether the licensee has taken reasonably sufficient steps to assure that the programming proposed pursuant to the agreement will serve the needs and interests of a citizens group that is representative of a substantial segment of the public within the licensee's service area.

15. With respect to Commission enforcement of the terms of citizen agreements, CBS suggests "a procedure whereby a 'citizens' group' would be prohibited from bringing an alleged breach of an agreement to the Commission for resolution before making a good faith effort to resolve the group's differences with the licensee." Once a complaint is before the Commission, CBS urges us to "limit review, as in fairness doctrine complaints, to the reasonableness of a licensee's judgment in implementing programming or other activities pursuant to agreements and * * * not substitute [our] judgment for that of the licensee as to the appropriateness or relevance of specific programming," thus not making "a qualitative program judgment." A more rigorous standard, CBS argues, "would constitute an encroachment on the licensee's First Amendment rights and would be tantamount to censorship * * *" NBMC urges application of the same promise-versus-performance standard used in reviewing other licensee representations to the Commission.

16. On the question of sanctions in the event of violation of the terms of an agreement, NBMC says the same action should be taken as in other cases of breach of promises: "designation for hearing and the possible denial of the license renewal." PIRG suggests using forfeiture proceedings based on misrepresentations to the Commission in the case of a licensee "whose breach is intentional or whose rationale for nonperformance is so transparent that it indicates bad faith." Says PIRG: "Less severe penalties are more likely to be meted out than drastic ones and thus become realistic deterrents to bad faith conduct."

17. *Procedural matters.* The impact of citizen agreements on the Commission's procedures for handling challenged applications generated considerable comment. Several broadcasters contend that the threat of delayed application processing is sometimes used to wring unreasonable concessions from licensees, contrary to the public interest. They urge speedier Commission processing of challenged applications to minimize this danger, especially in the case of applications for transfer of control or assignment of license. Some suggest that the problems of delay in transfer and assignment applications be considered in a separate proceeding. NOW counters that a separate proceeding is unnecessary because the same public interest determination must be made in transfer and assignment applications as others, and because the danger of improper agreements is minimized by Commission review of them. With respect to petitions to deny, Storer urges strict enforcement of present procedural rules, and Metromedia asks for a revision of Commission policies for considering petitions to deny, which would tend to limit them. ABC and KBOX propose restricting consideration of informal objections by establishing time deadlines for their submission. NOW opposes any change in present procedures. CBS would bar citizens from filing petitions to deny applications of stations with which they have signed agreements. NBC would permit agreements to contain clauses barring petitions to deny. NOW would not have the signing of an agreement bar the filing of a petition to deny, since "the agreement may cover only certain of the issues with which the group is concerned * * *" Both NBC and NAACP suggest the free withdrawal of petitions to deny.

Discussion and Statement of Policy

18. *Basic Considerations.* In accordance with the legislative design for broadcasting set out in the Communications Act, licensees alone must assume and bear ultimate responsibility for the planning, execution, and supervision of programming and station operation. This responsibility cannot be delegated, and a licensee cannot (even unilaterally) foreclose its discretion and continuous duty to determine the public interest and to operate in accordance with that determination.

19. We have long held that it is responsibility, and not just accountability, that is nondelegable. In "United States Broadcasting Corporation," 2 FCC 208, 225 (1935), we said:

> Complete supervision of and control over programs, including careful examination of

their content, directly affects the rendition of a public service. The right to determine, select, supervise, and control programs is inherently incident to the privilege of holding a station license. In fact, the right becomes a responsibility of a licensee, as he must be held to strict accountability for the service rendered.

In "National Broadcasting Co., Inc., v. United States," 319 U.S. 190 (1943), the Court noted with approval the following statements in our 1941 "Report on Chain Broadcasting":

> It is the station, not the network, which is licensed to serve the public interest. The licensee has the duty of determining what programs shall be broadcast over his station's facilities, and cannot lawfully delegate this duty or transfer the control of his station directly to the network or indirectly to an advertising agency. He cannot lawfully bind himself to accept programs in every case where he cannot sustain the burden of proof that he has a better program. The licensee is obliged to reserve to himself the final decision as to what programs will best serve the public interest. We conclude that a licensee is not fulfilling his obligations to operate in the public interest, and is not operating in accordance with the express requirements of the Communications Act, if he agrees to accept programs on any basis other than his own reasonable decision that the programs are satisfactory. [*Ibid.*, at 205–6]
>
> * * * * *
>
> If a licensee enters into a contract with a network organization which limits his ability to make the best use of the radio facility assigned him, he is not serving the public interest. [*Ibid.*, at 218]

We have thus uniformly rejected agreements which would operate to restrict the right of a licensee to make and implement decisions respecting station operations.[8] It is on this foundation, then, that we adopt the following policies.

20. *Local dialogue.* We can state a licensee's obligations with respect to local dialogue simply. We require community ascertainment, and we evaluate thereby the adequacy of a licensee's operating proposals to serve the public interest. Beyond this, a licensee is not obliged to negotiate toward or conclude an agreement.[9] Thus, while we encourage extensive local dialogue, we leave determination of whether or not to discuss or to enter agreements to the discretion of each licensee. We therefore reject NBMC's contention that the Commission should penalize a licensee for failing to meet with a particular group or to discuss station performance.

21. If a licensee is presented with proposals by any group that it feels are not in the public interest, it should reject the proposals. On the other hand, even a group whose individual membership appears nonrepresentative may raise views, concerns, or problems that should be dealt with.[10] It is the proposals themselves—rather than their proponents—which the licensee ought to consider in relation to its public interest duties. We repeat, though, that "consideration" need not take the form of "negotiation" or "agreement."

22. *Filing of agreements.* The significance of and public interest in citizen agreements require that they be placed in the public files of broadcast stations that enter them, and we will so amend § 1.526 of our rules. We believe that the public interest is fully served by local filing, and will not require that agreements be published locally or filed with the Commission. Should parties desire to file an agreement with us, we suggest its submission as an amendment to the station's most recent renewal or other broadcast application.[11] However, we are not prepared to require local filing of routine commercial contracts as suggested by some commenters, for that lies outside the scope of this proceeding.

23. *Terms of agreements.* We believe suggestions that we permit licensees to delegate responsibility conflict with basic requirements of the Communications Act, as we discussed in paragraphs 18 and 19, above. Commenters' examples of alleged delegations of responsibility are not persuasive. The employer-employee relationship contains ample opportunity for the direction of employees and the supervision of their work, and the employer retains flexibility to change or end the warrant of authority to act in its behalf.[12] Attempted delegations to other commercial interests would consitute unlawful transfers of control of the stations involved, in violation of Section 310(b) of the Communications Act, just as attempted delegations to networks were held improper in the "Report on Chain Broadcasting".

24. Some of the comments indicate that our examples of agreements that inflexibly bind licensees confused rather than clarified the thrust of our proposed policy. The principle underlying this aspect of the policy is that in areas where licensees have public interest duties cognizable by the Commission—for example, programming and employment practices[13]—a licensee is obliged to modify any prior practice or proposal when in the reasonable exercise of its good faith judgment it believes that the public interest so requires. The consequence of this principle is that no proposal in such an area can be immutable, whether presented unilaterally in an application or undertaken pursuant to a commercial or citizen agreement.

25. Wherever possible, we will construe the provisions of citizen agreements in a manner favorable to their implementation. Even where understandings are susceptible to different interpretations, we generally will decline to have parties redraft their agreements. We do not wish, by dispelling ambiguities in language, to inhibit development of the local discussion process. We cannot, however, approve agreements which contain "fixed determinations, binding and unchangeable," in areas where flexibility to serve the public interest is required. To the extent that any agreement surrenders this discretion to others, it cannot be considered by this Commission as having any force or effect. We agree with NOW that specificity per se is not improper,[14] but caution that detail may give rise to expectations of inflexibility which, if imposed, would be improper.

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[8] For example, we have proscribed network agreements which unduly restrict the carriage of programs of other networks [Section 73.658(a) and (b)], and trade agreements which impair a licensee's obligation to retain control over program matter at all times [Filing of Agreements, 33 FCC 2d 653 (1972); "WGOK, Inc.," 2 FCC 2d 245 (1965); and "United Broadcasting Company of New York, Inc.," 40 FCC 224 (1965)]. We have also pointed out that "private agreements cannot be construed to limit a broadcaster's responsibilities and obligations imposed by the Communications Act * * *" "Golden West Broadcasters," 8 FCC 2d 987, 988 (1967). We have acted to prevent the possible improper delegation of licensee responsibility in connection with subscription agreements between radio stations and musical format service companies. "Report and Policy Statement," FCC 75–1234, released November 7, 1975. See also "Report and Statement of Policy Re: Commission En Banc Programming Inquiry," 25 FR 7291, 7295, 20 RR 1901, 1912–3 (1960); and "Fairness Report" in Docket 19260, 48 FCC 2d 1, 10 (1974). There is, of course, no rule of law or policy which prohibits a licensee, in the exercise of its discretion, from determining not to broadcast certain programs or to broadcast other programs which it believes better serve the public interest. It is the fixed determination, binding and unchangeable, which runs afoul of the requirement of licensee responsibility.

[9] See "Great Western Broadcasting Corp.", 53 FCC 2d 1147 (1975).

[10] Of course a licensee should not feel compelled to yield to demands from one interest group to the extent of disregarding other legitimate interests which must be served. Part of the licensee's function of addressing community needs with responsive practices consists of reasonably balancing those responses.

[11] If parties so request, we will place an agreement in the station file maintained at the Commission for public reference. This alone would not constitute an incorporation of the agreement into an application, however, and would not affect its review or enforcement by the Commission. (See paragraph 29, below.) However, we would not generally expect agreements to be filed with us unless incorporated in an application or submitted with a complaint or other request for specific and formal action.

[12] We recognized these differences in "International Good Music", FCC 60–1340 (1960) and "WSKP, Incorporated", 2 RR 2d 1103 (1964). In the latter case we said arrangements where station operators were not station employees presented a "fundamental question * * * as to whether such relationships lead to abdication of licensee responsibility, in violation of the control requirements of the Communications Act * * *"

[13] As we have pointed out elsewhere, there are activities which are clearly extraneous to the Commission's regulatory function. See "Black Identity Association," FCC 71–378, 21 RR 2d 746 (1971). However laudable such activities may be, we prefer neither to approve nor to disapprove agreement terms about them.

[14] In the "Proposed Policy Statement" we did not intend to imply that specificity is improper. The examples given in paragraph 15 were intended to illustrate improper binding of the licensee rather than improper content of those hypothetical agreements. As we stated immediately thereafter, in paragraph 16, "we have specifically declined to limit these accords by defining the *matters* that can be discussed and assented to by licensees and members of the public." (Emphasis supplied.)

26. With respect to suggestions for specific agreement terms, we are not willing to specify how citizen agreements should ensure that licensee responsibilities are not abridged, preferring to leave citizens and licensees free to work out whatever arrangements they believe appropriate in their circumstances. We will therefore not require express savings clauses, nor will we imply a "blanket" savings clause. We will not strain the plain language of agreements to construe away provisions inflexibly binding licensees, nor to strengthen inadequate savings clauses, since these are matters for the parties.[10] We cannot allow ourselves to be cast in the role of a local mediator, resolving differences and recommending agreement terms. We have neither the staff nor the financial resources to assume such a burden, and are neither authorized nor willing to become a censor with respect to program disputes. We reject Metromedia's suggestions (paragraph 11, above) which would unnecessarily limit the scope of possible agreements, since we intend to avoid any nonessential restrictions on citizen agreements. We agree with NOW that it would not be appropriate for us to attempt any limitation of the EEOC conciliation process. See "National Broadcasting Company, Inc." (WRC-TV), 52 FCC 2d 273, 293 (1975).

27. Metromedia's fears that we will use our newly stated policies to punish licensees who entered improper agreements in the past is unfounded. With respect to agreements made prior to release of our Proposed Policy Statement (June 10, 1975) we said:

> [P]ending agreements which have been submitted as the *quid pro quo* for the withdrawal of an unresolved petition to deny will * * * be evaluated in accordance with [the policies and practices expressed here]. Agreements, heretofore either implicitly accepted or explicitly considered by the Commission in disposing of a petition to deny or similar protest, need not be revised by the parties or re-examined by the Commission. Instead, we will interpret these existing agreements in a manner consistent with our announced role and with the fundamental principle that the licensee has a non-delegable responsibility over the programming and operation of its station. Of course, provisions of existing agreements which may operate to improperly curtail this fundamental responsibility, will have no force or effect before this Commission. Finally, we believe that our announced course of action can and should be applied to any pending complaint concerning the licensee's implementation of a previously filed agreement.

Our consistent policy has been to call attention to deficiencies so that parties can take whatever remedial steps they believe appropriate. We do not believe that application of these policies to existing agreements as described above will "punish" any licensee. As to agreements entered into after release of this Report and Order, we would expect to continue an essentially remedial approach, but feel we must reserve the right to question the basic fitness of a licensee who—being fully on notice of our policy—engages in conduct clearly antithetical to that policy.

28. To reiterate, final responsibility (as well as accountability) for operating decisions of the type we are concerned with must remain with the licensee. We intend to give considerable weight to licensee determinations of what serves the public interest, just as we always have. We believe these standards are clear, and that examples of their application are unnecessary. We think the continued examination of agreements in accord with these standards offers the greatest promise of a reasonable balance between maximum licensee-citizen flexibility and effective performance of our duty to ensure compliance with applicable statutes, rules, and policies.

29. *Review and enforcement.* Balancing our concern for preserving the broadcaster's nondelegable accountability to the whole public against our determination not to cast the shadow of government over the process of local discussion—and in light of the Commission's limited resources—we will take cognizance of citizen agreements only to the following extent:

(a) If asked to determine whether an agreement is contrary to applicable statutes, rules, or policies, we will review it in conformity with the policies expressed here.

(b) Substantive agreement terms incorporated in an application will assume the status of representations to the Commission, and will be treated as are all promises of future performance.[11] We prefer not to impose any restrictions on the submission of agreements to us under these terms unless experience indicates we must.

30. We think NBC correctly states that oral agreements present unusual difficulties calling for different treatment than written agreements. As noted, a licensee may have difficulty drawing a line between formal oral "agreements" and those informal status reports or comments to listeners which are essential to efficient station operations. Extending filing and other requirements to oral agreements, therefore, may inhibit informal dialogue, contrary to our policy of encouraging it. Further, we continue to believe that we should not become embroiled in disputes as to the existence or terms of oral agreements, and will give no consideration whatever to those understandings. As we said in our Proposed Policy Statement, "the best evidence of any commitments alleged to rest upon a broadcaster-citizen agreement will be the licensee's understanding of that accord as reflected in his application representing it to the Commission." Nor will we require licensees to place notations or summaries of oral agreements in their public files. As for Mrs. Donnelly's fear of secret agreements: We believe, first, that citizen groups and licensees will generally prefer the certainty of written agreements to the vagueness of oral ones; and, second, that violations of a licensee's duty to serve the public interest are determined by its performance, not necessarily by the mere existence of a particular agreement. Since we believe the advantages of oral agreements far outweigh their possible disadvantages, we will not prohibit them. We will not, however, take cognizance of oral agreements.

31. In reviewing complaints that a licensee has breached promises made in a citizen agreement, we will judge its performance with our promise-versus-performance test—whether the licensee has made reasonable and good faith efforts to effectuate its proposals.[12] We strongly disagree with the CBS suggestion that alleged breaches of agreement terms incorporated in a broadcast application should be treated differently than deviations from other application proposals. We concur with CBS that aggrieved citizen groups should try to work out their differences with licensees before bringing their complaints to the Commission. This is consistent with our philosophy of encouraging local dialogue, and lessens our burden by resolving at least some disputes locally. Then too, since on receiving a complaint we generally ask for licensee comment, bringing a complaint to the Commission before discussing it with the station may only delay its resolution. However, we are not inclined to foreclose the possibility of direct complaints to us, and we decline to adopt any rigid complaint procedure absent a strong showing that one is necessary.

32. The appropriate remedy for specific allegations raising substantial questions of unsatisfactory performance is that mandated by Section 309(e) of the Communications Act: designation for hearing of the station's application for license renewal. 47 U.S.C. 309(e). PIRG's suggestion that we enforce agreements with forfeitures cannot be implemented, since forfeitures cannot be imposed for violations of Commission policy alone. 47 U.S.C. 503(b).

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[10] It was our unwillingness to elevate a subordinate savings clause that led to our disapproval of the citizen agreement in the case of WAUD, "Letter to Ellen S. Agress," FCC 75-781, adopted July 1, 1975. There, we found that the savings clause was overridden by "the apparent binding nature of the terms of the agreement in light of the specific and clear language regarding the licensee's intention to be bound by the commitments set forth in the agreement." Indeed, even if a savings clause could be read as "coordinate" with a binding clause—rather than subordinate—we do not feel it is our place to choose which shall govern. That is for the parties to make plain.

[11] As with other representations, the licensee would be free to modify them, though we would ask to be informed if the modifications are significant. Upon our own motion, we may ask for explanation of any deviations that appear to be substantial.

[12] We will not enforce agreement terms not incorporatedin an application. And of course we will not enforce agreement terms in areas not cognizable by the Commission (see note 8, above), even if incorporated in an application.

33. *Procedural matters.* We recognize licensees' concerns that delay in disposing of applications is unfair to all parties. For that reason we are working to speed the processing of all applications, both contested and uncontested. However, the dramatic procedural changes some suggest would not facilitate determination of whether grant of an application would be in the public interest, and we believe their adoption would not be appropriate in the limited context of this proceeding. However, it is appropriate for us to consider the relationship between citizen agreements and petitions to deny. We do not believe we can, consistent with our own public interest obligation, restrict the right of any individual or group to file a petition to deny, as some commenters suggest. An agreement properly should be based on an honest acceptance of the merits of a proposal and not on any desire on the part of the licensee to further his own private interests or to avoid Commission scrutiny of his trusteeship. Thus, clauses in agreements barring petitions to deny would be improper, though we would accept a statement that the agreement satisfies objections which otherwise might have generated a petition to deny. We therefore caution parties against viewing an agreement as protection or insulation against future challenge. For the same public interest reasons, we also believe we must consider the allegations of petitions to deny, once filed, even if the petitioners request their withdrawal.[13] Allegations of past misconduct would of course receive close scrutiny. On the other hand, complaints that a licensee's operating proposals are inadequate might well be mooted by agreement undertakings, and could be resolved more easily.

34. Finally, the key assumption in successful dialogue and possible agreement is the good faith of the parties. We reiterate our recognition of the danger that "broadcasters may feel compelled to yield to organized pressure groups without regard to the merits of their complaints." "Final Report and Order," Docket 19153, 38 Fed. Reg. 28762, 28764. There is no way for the government to eliminate such threats entirely, without becoming so heavily involved in the business and the freedoms of broadcaster and citizen as to constitute, itself, a greater threat. However, on a showing that either party has abused the process of community dialogue, we will seek to ascertain whether Commission action would be appropriate.[14]

SUMMARY OF POLICY

35. Our consideration of the comments in this docket, as well as examples of citizen agreements that have come before us, has led us to the following conclusions. Citizens in a station's service area can make valuable contributions to broadcasting by communicating to the station licensee their perceptions of what the public interest requires. Licensees, for their part, have an obligation to seek out citizens' views, weigh them, and propose programming and operating practices to serve the public interest. The Commission's role is to establish procedures to facilitate these processes, and to determine whether licensees have, in fact, reasonably served the public.

36. One recent result of the dialogue between citizens and broadcasters has been more or less formal agreements, in which licensees undertake to operate in certain ways perceived by the parties to the agreement as serving the public interest. While we encourage community dialogue, a licensee is not obliged to undertake negotiations or agreements. However, if a licensee does enter an agreement, the following policies will apply.

37. The obligation to determine how to serve the public interest is personal to each licensee and may not be delegated, even if the licensee wishes to. Therefore, agreements must not take responsibility for making public interest decisions out of the hands of a licensee. Nor may they prevent it from changing the way the station serves the public interest as the licensee's perceptions change. The Commission, however, does not want to intrude unnecessarily into the processes of local dialogue and the exercise of licensee discretion. Therefore, considerable deference will be given a licensee's determinations of how to serve the public interest, and the Commission will not prescribe or prohibit any particular agreement terms, so long as they are not unlawful or violative of particular Commission rules.

38. To avoid unnecessary government interference, we will examine only written agreements, which either are incorporated in the licensee's renewal or other application, or which come to us upon complaint or request for formal ruling or review. Such agreements will be considered to the following extent:

(a) We will review them to determine whether they improperly delegate nondelegable licensee responsibilities, whether they improperly bind future exercise of the licensee's nondelegable discretion, and whether they otherwise comply with applicable statutes, rules, and policies.

(b) Substantive agreement terms constituting proposals of future performance will assume the status of representations to the Commission, if made in an application submitted to us, and will be treated by the Commission as are all promises of future performance. The licensee will be free to modify the representations later, but we would ask to be informed if the changes are significant. We may ask for explanation of any deviations that appear to be substantial.

39. If the Commission finds an agreement improper, it will so advise the parties, who may wish to correct the defects. Provisions of any agreement that rely on invalid terms will have no force and effect before the Commission. Serious abdications of licensee responsibility will raise a question about the licensee's basic fitness.

40. The success of the dialogue and agreement processes depends on the good faith of citizens and licensees. The Commission will consider appropriate action if there is evidence any party abused the processes or acted in bad faith.

41. Because citizen agreements may be of interest to members of the public in the station's service area, written citizen agreements must be placed in the station's public file, as specified by the amendment to Section 1.526 set forth in Appendix B.

42. The Commission recognizes that oral understandings and agreements may be a common practice. However, because of inherent problems in establishing the existence and terms of such agreements, the Commission will not consider them. (Of course, if an oral agreement is the basis for a license application representation, the Commission would treat that representation like any other, without reaching the underlying agreement.) The Commission, likewise, will not require that station public files contain information about oral agreements.

43. Finally, the Commission will accept a statement that an agreement satisfies objections which otherwise might have generated a petition to deny, but we cannot give effect to an agreement purporting to preclude the filing of a petition to deny. The parties' basis for their agreement should be a good faith determination that it promises to serve the public interest.

44. Once a petition to deny is filed, the Commission is bound to consider its merits, even if the petitioner requests its dismissal. A petitioner is free to withdraw his challenge at any time, but such an action would necessarily dispose of the issues raised.

45. For the foregoing reasons, the policy set forth above is adopted; and § 1.526 of our Rules is amended as shown below. Authority for these actions is found in Sections 4(i), 303 and 307 of the Communications Act of 1934, as amended, effective January 22, 1976.

46. *It is further ordered,* That the proceedings in Docket 20495 are terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

Adopted: December 10, 1975.

Released: December 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX A, PARTIES FILING COMMENTS

(*Indicates Reply Comments Also Filed)
American Broadcasting Companies, Inc.* (ABC)
CBS Inc. (CBS)
Corinthian Broadcasting Corporation
Mrs. Elaine Donnelly, Michigan Chairman, STOP E.R.A. Committee
General Electric Broadcasting Company, Inc.* (GE)

[13] This is not to preclude petitioners from withdrawing themselves and their pleadings at any time they choose. "WAUD," note 10, above. But the "issues" raised in such pleadings may not readily disappear.

[14] See "Northwestern Indiana Broadcasting Corporation," FCC 75-1085 (1975).

KBOX Radio, *et al.** (KBOX)
KBOX, Dallas, Texas, KFAB, Omaha, Nebraska, KGOR (FM), Omaha, Nebraska, KLZ (AM & FM), Denver, Colorado, KTLC (FM), Dallas, Texas, KVGB, Great Bend, Kansas, WAEZ (FM), Akron, Ohio, WAFB–FM, Baton Rouge, Louisiana, WAKR, Akron, Ohio, WBIP, Booneville, Mississippi, WBMJ, San Juan, Puerto Rico, WBOP (AM & FM), Pensacola, Florida, WDXN, Clarksville, Tennessee, WFDF, Flint, Michigan, WGCM, Gulfport, Mississippi, WIFC (FM), Wausau, Wisconsin, WKAU (AM & FM), Kaukauna, Wisconsin, WKRG (AM & FM), Mobile, Alabama, WLOI (AM & FM), La Porte, Indiana, KMA, Shenandoah, Iowa, WOKJ, Jackson, Mississippi, WONE, Dayton, Ohio, WSAU, Wausau, Wisconsin, WTAM (FM), Gulfport, Mississippi, WTRF (FM), Wheeling, West Virginia, WTUE (FM), Dayton, Ohio, WTUG, Tuscaloosa, Alabama, WTUP, Tupelo, Mississippi, WVOJ, Jacksonville, Florida, WWCA, Gary, Indiana, KCAU–TV, Sioux City, Iowa, KGUN–TV, Tucson, Arizona, KIVI (TV), Nampa, Idaho, KLTV, Tyler, Texas, KMTV, Omaha, Nebraska, KOAA–TV, Pueblo, Colorado, KOSA–TV, Odessa, Texas, KPVI (TV), Pocatello, Idaho, KPSM–TV, Fort Smith, Arkansas, KTRE–TV, Lufkin, Texas, KXON–TV, Mitchell, South Dakota, WAFB–TV, Baton Rouge, Louisiana, WAKR–TV, Akron, Ohio, WCTV, Thomasville, Georgia, WHNB–TV, New Britain, Connecticut, WICS (TV), Springfield, Illinois, WKRG–TV, Mobile, Alabama, WMTV, Madison, Wisconsin, WRAU–TV, Peoria, Illinois, WSAU–TV, Wausau, Wisconsin, WSAV–TV, Savannah, Georgia, WTRF–TV, Wheeling, West Virginia, WTVO (TV), Rockford, Illinois.
Metromedia, Inc. (Metromedia)
NAACP Legal Defense and Educational Fund, Inc. (NAACP)
National Association of Broadcasters (NAB)
National Black Media Coalition (NBMC)
National Broadcasting Company, Inc. (NBC)
National Citizens Committee for Broadcasting (NCCB)
National Organization for Women *(NOW)
Office of Communication, United Church of Christ (UCC)
Orion Broadcasting, Inc., *et al.* (Orion), Orion Broadcasting, Inc., Donrey, Inc., Community Television of Southern California
Public Interest Research Group, *et al.* (PIRG), Public Interest Research Group, Connecticut Citizen Action Group, Massachusetts Public Interest Research Group, Missouri Public Interest Research Group, New Jersey Public Interest Research Group, New York Public Interest Research Group
Rio Grande Valley Coalition on the Media, committee of La Federacion de Organizaciones del Valle
St. Louis Broadcast Coalition
Storer Broadcasting Company (Storer)
Worldvision Enterprises, Inc. (Worldvision)

Part I of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 1.526(a)(1) a sentence is added, the present Note designated as Note 1, and a new Note 2 added; and in paragraph (e)(2) a sentence is added to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(a) * * *

(1) * * * The file shall also contain a copy of every written citizen agreement.

* * * * *

NOTE 2: For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as—but not limited to—community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, and program supply contracts; and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement—such as a provision for payment of fees for future services of the citizen-parties [see "Report and Order," Docket 19518, —— FCC 2d —— (1975)]—would not cause the agreement to be considered commercial for purposes of this section.

* * * * *

(e) * * *

(2) * * * If a written agreement is not incorporated in an application tendered for filing with the Commission, the starting date of the retention period for that agreement is the date the agreement is executed.

* * * * *

[FR Doc.75-34959 Filed 12-29-75;8:45 am]

[Docket No. 19861; FCC 75-1360]

PART 73—RADIO BROADCAST SERVICES

Noncommercial Educational Broadcast Stations; Retention of Audio Recordings

In the matter of amendment of Part 73 of the Commission's rules and regulations to require noncommercial educational broadcast stations to retain audio recording under certain circumstances.

1. The Commission has under consideration its notice of proposed rulemaking, adopted November 7, 1973 (38 FR 31456), and the responsive pleadings filed by interested parties.[1]

2. This proceeding was instituted by the Commission following the enactment of Public Law 93-84[2] which added new subsection (b) to Section 399 of the Communications Act of 1934, as amended. The new subsection reads as follows:

"(b)(1) Except as provided in paragraph (2), each licensee which receives assistance under this part after the date of the enactment of this subsection shall retain an audio recording of each of its broadcasts of any program in which any issue of public importance is discussed. Each such recording shall be retained for the sixty-day period beginning on the date on which the licensee broadcasts such program.

(2) The requirements of paragraph (1) shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (1).

(3) Each licensee and entity designated by a licensee under paragraph (2) which retains a recording under paragraph (1) or (2) shall, in the period during which such recording is required under such paragraph to be retained, make a copy of such recording available—

(A) to the Commission upon its request, and

(B) to any other person upon payment to the licensee or designated entity (as the case may be) of its reasonable cost of making such copy.

(4) The Commission shall by rule prescribe—

(A) the manner in which recordings required by this subsection shall be kept and

(B) the conditions under which they shall be available to persons other than the Commission, giving due regard to the goals of eliminating unnecessary expense and effort and minimizing administrative burdens."

3. In our notice, we emphasized a desire to adopt rules creating a workable system which adheres to the Congressional mandate to retain audio recordings while also responding to the clear intent that administrative and financial burdens placed upon the noncommercial, educational broadcaster be minimized. The notice declined to issue a formal proposal, requesting, instead, that educational stations and associated organizations respond by suggesting appropriate methods to accomplish the requirements of the statute.

4. Legislation requiring the audio recording and retention by noncommercial, educational broadcasters of programs in which issues of public importance are discussed (hereinafter referred to as "recording and retention") was introduced on three separate occasions prior to its passage by the Ninety-third Congress. In the second session of the Ninety-first Congress, an amendment requiring noncommercial, educational broadcasters to record and retain public affairs programs[3] was added to pending public broadcasting financing legislation during the course of committee deliberations.[4]

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[1] A listing of the parties filing comments or replies is found in Appendix A.

[2] 47 U.S.C. 399(b), 87 Stat. 219, approved August 6, 1973.

[3] The amendment would have added new Section 399(b) to the Communications Act to read as follows:
"Sec. 399(a) * * *
(b) In order to assure compliance with this section and with other provisions of this Act requiring fair treatment of matters in the public interest, the Commission shall prescribe such regulations as may be appropriate to require that broadcast stations which receive assistance under this title (1) keep records, including audio recordings, for a reasonable period of time of each program broadcast which involves an issue of public importance, and (2) furnish such records to the Commission at its request. The Commission shall make such records available to the public at the requesting party's cost under such circumstances and conditions as may be reasonable and appropriate."

[4] The Senate Commerce Committee report, S. Rept. No. 91-869, May 14, 1970, explained that, under the amendment, public broadcasters would be required to "keep adequate records, including audio recordings of programs they broadcast that involve public affairs". The report said the requirements were necessary to assure that public broadcasters would not be subjected to political pressure and influence from outside sources. The Committee report also emphasized that the amendment applied only to programs involving issues of public importance, such as public affairs and news type programs and not to programs such as Sesame Street and Misterogers' Neighborhood.

Though the amended measure was approved in the Senate (S. 3558), the recording and retention requirement was subsequently deleted in a Senate-House conference after it was disclosed that the amendment had not been the subject of hearings in either house.[5] In the Ninety-second Congress, despite the urging of Senator Robert P. Griffin,[6] neither house would agree to the amending of pending public broadcasting financing legislation so as to require recording and retention by public broadcasters. In the Ninety-third Congress, the Senate, after extensive committee hearings on public broadcasting [7] which included some discussion on recording and retention,[8] passed and sent to the House the Public Broadcasting Act of 1973 (S. 1090). As approved, the measure included an amendment to Sec. 399 which would require recording and retention by public broadcasters. The House counterpart (H.R. 8538), as it was introduced, contained verbatim the language of the Sec. 399 amendment in the Senate bill. In committee, however, that language was substantially revised and clarified,[9] the result of which is the statute we are now directed to implement.

5. The intent of Congress, as manifested in the legislative histories discussed above, strongly suggests that the meanings attached by Congress to the phrases "public affairs" and "issues of public importance" favorably comport with the definitions of those phrases as contained within the Commission's rules and policy reports.[10] The general acceptance and understanding of these terms within the broadcast industry merits their adoption in this proceeding. Thus, we believe that compliance with the provisions of Section 399(b) will be achieved by the recording and retention of those programs which consist of talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, roundtables, and similar programs primarily concerning local, national, and international public affairs where the licensee, on the basis of a subjective, good faith judgment, determines that the program in question involves an issue or issues that are likely to have an impact upon the community at large, society, or its institutions.[11]

6. The comments of the parties raise the following questions which we shall consider seriatum:

(a) What constitutes an audio recording?

(b) What is an entity and what is its purpose?

(c) What audio recordings may an entity retain?

(d) What audio recordings must a licensee retain?

(e) What is a licensee's responsibility for the acts of an entity?

(f) May a licensee be reimbursed for the costs of complying with the statute, and, if so, to what extent?

(g) What procedural requirements may be imposed upon a party submitting a request that a program recording be made available (hereinafter referred to as "access" or an "access request")?

(h) Related miscellaneous matters.

7. *What constitutes an audio recording?* The intent of Congress that public affairs programs aired by noncommercial, educational broadcasters be retained through the use of audio recordings is unmistakably clear. Further, testimony before the Communications Subcommittee [12] leaves no doubt that "audio recording" was the medium to be used in complying with the Act. Previous versions of the proposed recording and retention amendments required that "records" as well as "audio recordings" be retained, raising questions of whether or not "records" meant written scripts and logs or electrical transcriptions. Any ambiguities that may have existed in the previous legislation were removed by the deletion of "records" and the exclusive use of "audio recording" in the present law. Consequently, we reject the contention offered in one comment that an "audio recording" means a written transcript. We do not believe that Congress intended educational broadcasters to incur added expense by employing additional personnel simply to transcribe and produce written transcripts for possible future public review.

8. An array of methods exists for obtaining both audio recordings and copies of those retained recordings. WSWP, WBUR, Jack Straw, and PBS suggest the use of slow-speed, continuous-logging tape recorders, but Jack Straw, EB, and APRS assert that such equipment will cost each public broadcaster anywhere from $1,500 to $6,000, an expense which, if required, would imperil the very existence of many small public broadcasting stations. We do not think Congress intended such a result. Moreover, we think the suggestion by PBS that consideration be given to cassettes, cartridges, and small reel to reel recorders as recording modes represents a more prudent and practical approach.

9. The only regulation we adopt with regard to the nature of the audio recording and the requested copies requires that such recordings and copies of recordings, regardless of the method used, be accurate, complete, and intelligible. Further, we believe that a member of the general public who seeks access to a particular program recording should be provided a copy [13] of the program in a form that allows for listening on playback devices commonly available to the general public.[14] Finally, in response to an inquiry from WSWP, we see no reason why the recording provided pursuant to a statutory request should be of "broadcast quality", for it is not intended, and indeed, it cannot be used for rebroadcast purposes without the express authority of the originating station.[15]

10. *What is an entity and what is its function? What audio recordings may an entity retain?* The utilization of the entity concept by Congress seems to have arisen from an awareness [16] that a vast amount of expensive and unnecessary

[5] Conf. Rpt. No. 91-1466, Sept. 23, 1970. It should be noted that the House version of the Public Broadcasting Act (H.R. 17982) did not, either as it was introduced or as it was passed, contain any recording and retention provisions.

[6] Hearings before the Subcommittee on Communications and Power of the House Committee on Interstate and Foreign Commerce on Public Broadcasting," 92nd Cong., 2nd Sess., Serial No. 92-62, February 1-3, 1972, at p. 241. The Senator's stated purpose for appearing was to urge adoption of an amendment which would insure objectivity and balance in "public affairs" programming. Concurrent with his appearance before the House committee, Senator Griffin also introduced S. 3237 in the Senate. The proposal which was identical in both language and content to the proposed House amendment and the original proposal before the Ninety-first Congress (see Note 3) was referred to the Commerce Committee where it received no further consideration.

[7] See "Hearings before the Subcommittee on Communications of the Senate Commerce Committee on S. 1090, The Public Broadcasting Act of 1973, 93rd Cong., 1st Sess., Serial No. 93-10, March 28-30, 1973."

[8] Id. at pp. 111-117.

[9] H. Rpt. No. 93-331, June 26, 1973.

[10] "Public affairs" is defined at § 73.112 (a)(1)(iii), Note 1.(d)—AM; Section 73.282 (a)(1)(iii), Note 1.(d)—FM; Section 73.670 (a)(1)(iii), Note 1.(d)—TV. "Issue of public importance" is discussed and defined in the *Fairness Report*, 48 F.C.C. 2d 1 (1974) at p. 12.

[11] It should be noted that our adoption of the standard set forth in para. 5 represents a departure from the preliminary statement we made in the notice equating "any issue of public importance" with a "controversial issue of public importance". Reconsideration of our position was prompted in part by the receipt of correspondence from Senator Griffin (which we are considering as an informal comment) which strongly disputed the determination announced in our notice. Weighing the statements in our notice, the comments, and the legislative history, we now believe, upon further consideration, that our initial determination equating "any issue of public importance" with "controversial issue of public importance" was incorrect. The word "any" in the phrase "any issue of public importance" is, in our opinion, plain and unambiguous language which we are bound to effectuate in the rules we are adopting in this proceeding. Significance is also attached to the action of the House Committee in specifically revising the Senate-approved language by adding the word "any" to the statute.

[12] See note 7, *supra*.

[13] For purposes of this rule, "copy" is defined as a mechanical or magnetic reproduction of sound transcribed upon reel to reel tapes, cassettes, cartridges, dictabelts, recording discs, or other similar devices. For the reasons discussed in the concluding portion of paragraph seven, the definition of "copy" does not include written transcripts.

[14] In those instances where a program is either filmed or video-taped, the rule would be satisfied by making a recording of the sound track available.

[15] 47 U.S.C. 325(a).

[16] In the committee hearings on S. 1090 (see Note 7), Senator Pastore, with Hartford N. Gunn, president of PBS, as a witness, stated:

"Mr. Gunn brings up a good point. In order to avoid duplication by having 238 stations make tapes on a program that has national circulation, that the service ought to do it. I think that is the answer to the problem. Maybe we ought to refine this about who ought to have it."

duplication would result should each and every noncommercial broadcaster be required to retain an audio recording of a program already being retained elsewhere. Thus, the role of the entity is to eliminate duplication by performing, for one or more licensees, the duties required of the licensee by Sec. 399(b). At the national level, organizations such as PBS and NPR (National Public Radio) could serve as entities for all public affairs programs involving issues of public importance which they originate or distribute over their interconnection facilities. The same would presumably be the case with the regionally interconnected educational networks. In fact, though the committee testimony examined the use of entities at the national level only, we believe the entity concept may be used at any level and should be used wherever duplication and redundancy can be avoided.[17]

11. *Which audio recordings must a licensee record and retain?* Sec. 399(b) allows licensees the opportunity of designating entities to whom it may delegate the responsibility of recording and retaining public affairs programs in which issues of public importance are discussed. As we noted in the previous paragraph, the services of an entity may be utilized from the local level to the national level. In some cases, however, a licensee may find that an entity is unavailable, or decide that designation of an entity is unnecessary. In those instances, the statute requires that the licensee itself record and retain the programming regardless of the source of production or origination. Our rules will require that licensees record and retain all public affairs programming when any issue of public importance is discussed where the responsibility for the recording and retention of that program material has not been delegated to an entity.

12. *What is a licensee's responsibility for the acts or omissions of an entity?* PBS asserts that a licensee, having taken reasonable steps to insure that a designated entity can and will comply with the Act, should not be held responsible and therefore subject to forfeiture as the result of the entity's failure to act in a prescribed manner. PBS argues that to hold otherwise will require licensees to continue recording their public affairs programming in order to protect themselves. WGBH urges the Commission to extend maximum flexibility to licensees in designating entities, but adds that the licensee itself must remain responsible for compliance with the rules.

13. Requiring the licensee to assume responsibility for compliance with the rules where it is involved in the processing of the access request, is not, in our view, unreasonable or overly-burdensome. The rule will be satisfied if the licensee, using reasonable diligence, attempts to insure that there will be compliance with the rules by the entity. Where there is a complaint alleging a failure to comply with the rules, we will inquire of the licensee's efforts to insure compliance and prevent violation. If it should appear that reasonable precautions were observed, the licensee may be absolved. If, however, reasonable precautions were not observed by the licensee, then sanctions may be imposed. The standard to be used in these matters is no greater than that already imposed elsewhere in the Commission's regulations. It goes without saying that a licensee cannot be held responsible for the errors and omissions of an entity where it has no knowledge of, involvement in, or control over a particular access request.

14. In our Notice, we requested interested parties to submit specific proposals on the various aspects of access. The comments and replies focused on two subtopics: (a) reimbursement to the licensee or entity of costs involved in producing a copy of a particular program; and (b) methods of granting access to an interested party.

15. *May a licensee be reimbursed for the costs of complying with the statute, and, if so, to what extent?* A reading of the statute clearly indicates that a licensee or entity is entitled to receive, from the party making the request, reimbursement of the reasonable costs of making a copy of a program.[18] Various parties have suggested items they believe should be included in a "reasonable cost" computation. We do not think it necessary to embark on an extended, detailed, and possibly futile discussion of each potential cost item. We believe the question of what constitutes "reasonable costs" can be ascertained on a case-by-case basis utilizing generally accepted cost accounting principals.[19]

16. *Methods of granting access to an interested party.* Many of the licensees and educational broadcasting organizations urge the Commission to adopt rules requiring persons seeking access to identify themselves as a condition precedent to access. WGBH suggests that in addition to personal identification, persons seeking access should be required to disclose organizational affiliation and the purpose for the request, as in the case of public access to television program logs.[20] WGBH suggests that such information is necessary to maintain building security, "proof of access" records, and a continuing dialogue with the general public.

17. We believe the identification requirements governing access to a station's local public file[21] are more appropriate than the TV program log inspection rules for purposes of a Sec. 399(b) access request. Keeping in mind the spirit and intent of the statute, there appears to be a need for nothing more than minimal identification. The rules we adopt will allow a licensee or entity to require identification from the party seeking access but only to the extent of ascertaining the name and address of the party.

18. Various parties urge that all requests for copies of program recordings be made in writing. This, they say, will reduce errors and possible misunderstandings. We agree. As in a contract, for instance, a writing adds certainty. It specifically describes the performances required of the parties. Moreover, the writing itself is frequently used as a means of resolving disputes. Whether or not the written request is sufficiently clear will depend upon whether or not the program requested is capable of being identified with reasonable certainty. A satisfactory request will be expected to include the title of the program, the identity of the speaker(s) (if known), and the time and date of airing. Further, we would expect both licensees and entities, for administrative reasons and for possible future use, to retain either the request or a copy of the request along with a brief notation of the disposition of the request.[22]

19. We are adopting rules which require the party seeking access to a particular program to make payment in advance of the production of a copy of the requested program. The reason for such a rule seems obvious. A noncommercial, educational licensee needs some assurance, at the time the request is made, that its efforts in assigning manpower, expending materials, and utilizing equipment will not be made in vain. It may be argued, though not persuasively in our opinion, that advance payment will act

[17] For example, educational institutions that produce pre-recorded public affairs programming which is distributed to subscribers by mail or freight could serve as entities for those programs. Jack Straw urges the creation of taping centers in areas where several noncommercial, educational stations have overlapping signals. According to Jack Straw, these centers would record the necessary public affairs programs and then serve as an entity for the licensees in the area. Both of the above proposals are consistent with the entity concept and demonstrate the innovation and flexibility that may be utilized by licensees.

[18] 47 U.S.C. 399(b)(3)(B).

[19] We would not expect a licensee to include the original program production costs as part of the "reasonable costs." There is clearly no intent that the provisions of the statute be used to provide licensees with an indirect program production subsidy. It is not contemplated, for example, that the cost of the tape used to prerecord a program for airing at a later time or to record a program presented on a "live" basis would be included within a "reasonable cost" computation. In the former case, the tape cost is part of the program production cost. In the latter example the licensee or entity is required by the statute to retain a copy of any public affairs program in which an issue of public importance is discussed. "Reasonable costs" are limited to the cost of making a copy of the retained recording and do not include the cost of the retained recording itself. Further, we would not expect revenue derived from duties required by Sec. 399 to be used for purposes of underwriting other portions of the station operation.

[20] Section 73.674 of the Commission's Rules and Regulations.

[21] See interpretation of Section 1.526(d) in *WAPA-TV*, 32 F.C.C. 2d 729 (1971), which states that a person requesting access to the local public inspection file may be required to give his or her name and address but not more.

[22] The requests or copies of the requests should be retained for a period of three years from date of receipt as in the case of comments and suggestions received from the public though, at this time, we see no reason why such requests should be required to be kept in the licensee's public inspection file.

as a deterrent to access. We do not agree. The party who would be unable to make advance payment would, more likely than not, be unable to make payment at all. Payment of reasonable cost is contemplated by the statute and we think payment in advance does nothing more than assure the licensee that the request is legitimate.

20. In requiring payment in advance, we think it not unreasonable or overly burdensome to require that a licensee provide a person seeking access with a written, clearly-stated itemization of the charges made as the result of the request. Such a requirement seems basic and we would not expect noncommercial, educational broadcasters to find it objectionable.

21. Only one party offered comments on the question of where access should be consummated as between a licensee or entity and the person requesting a program recording. WGBH suggested that the copy of the recording be made available at the main studios of the licensee. We think a more flexible approach is required. For instance, many radio and television listeners and viewers are either temporarily or permanently incapacitated and therefore unable to present an access request at the main studio. Were we to require that all access requests be tendered in person at the main studio of a licensee, we would be effectively denying a substantial segment of the population an opportunity to review and examine the recorded programming. Our rules, therefore, will provide that an access request under the provisions of Sec. 399 (b) may be made either by presenting a written request in person at the licensee's main studio (or entity's principal place of business), or by mailing a written request to the licensee or entity at the main studio or principal place of business. While it can be argued that such a provision will operate as an additional administrative burden upon the licensee or entity, we think such an objection is overshadowed by the greater public interest in attempting to make access available to all members of a community.

22. On the question of whether licensees or entities should be required to provide playback equipment for the use of parties making access requests, WGBH admits that leaving members of the public to fare for themselves may make access more difficult, but asserts that requiring stations to provide such equipment would be extremely burdensome financially. WGBH says the four classes of prospective users, the Commission, members of Congress, community groups, and individuals, already have access to some form of recording and playback equipment at their offices, schools, public libraries, or homes. PBS adds that since the Act enjoins the Commission to consider the burdens of compliance, no basis exists for requiring licensees to provide playback capabilities for use by the public.

23. The act makes no specific mention of a duty on the part of public broadcasters to provide equipment on which a recording may be reviewed. Further there is no apparent direction by implication that such facilities be provided.[23]

24. Neither the Act, its legislative history, nor the comments of the parties reveal what type of time frame is to be utilized in satisfying an access request. Our primary intent is to insure that access requests be granted with promptness, allowing for varying circumstances that may arise with regard to the location of the retained recordings. Accordingly, in those instances where a public affairs program dealing with issues of public importance has been produced, originated, and subsequently retained by either a local entity or the licensee itself, we think the licensee or entity should be accorded a reasonable time not to exceed seven days, commencing upon receipt of the written request and advance payment, in which to furnish the party seeking access a copy of the requested program.[24] Where a designated entity is not located within the licensee's community of license, the licensee or entity will be accorded a reasonable time, not to exceed twenty-one days, commencing upon receipt of the written request and advance payment, in which to furnish the party seeking access a copy of the requested program.[25] For the purpose of construing our rules, an access request will not be considered as having been "actually received" until such time as both a written request and advance payment have been received by the licensee or entity.

25. *Related miscellaneous matters.* Rowley urges the Commission to include a procedure for the handling of disputes which he alleges may arise between licensees' entities, and the parties seeking access. He suggests that any complaints arising as the result of disputes involving actions required by Sec. 399(b) and the rules we are adopting, be filed with the Commission within five days after the dispute arises. The Commission, under the Rowley proposal, would be required to act within ten days after receipt of the complaint. While the Commission solicits innovative suggestions which will expedite the administrative process, we see little merit in adopting proposals which sacrifice informed consideration solely for the sake of hurried disposition. Moreover, we see little sense in creating yet another system to handle matters already being resolved by our present procedures, particularly in light of recent public criticism directed at the proliferation of government regulation. For these reasons, we decline to adopt the Rowley proposal, preferring, instead, that all disputes arising under the rules implementing Sec. 399(b) be resolved through the use of the established complaint procedure used by the Commission.

26. APRS and PBS suggest that licensees and entities be allowed to protect themselves against possible future claims of copyright infringement, defamation, or violations of privacy by requiring parties seeking access to execute release agreements. We think the provisions of the Communications Act of 1934, as amended, and the judicial interpretation of those provisions are sufficient to deal with the potential problems. For instance, Section 325(a) of the Communications Act of 1934, as amended,[26] would preclude the rebroadcasting of recordings prepared in accordance with the requirements of Sec. 399(b) where no "rebroadcast" permission was granted by the originating licensee. Further, a licensee or entity required by this act to make a recording available to a requesting party would presumably receive immunity from claims alleging defamation[27] or copyright infringement where it had no recourse but to comply with the statutory requirement.

27. For purposes of interpreting and complying with the statute, we think it is both necessary and appropriate to define the word "assistance" which appears in Section 399(b)(1). Any person, association, corporation, State or political subdivision thereof, who is either licensed to operate or holds a permit to construct a public, noncommercial, educational broadcast facility and who receives from federally-funded sources (a) matching grants for construction of broadcast facilities as provided for under the Communications Act of 1934, as amended,[28] (b) grants for the production of educational television or radio programs for national or regional distribution,[29] or (c) payments to aid in the financing of either local programming or operational costs incurred by the noncommercial, educational broadcast facility,[30] will be deemed to have received "assistance" for purposes of complying with the rules adopted in this proceeding.

28. Neither the rules we are adopting nor the foregoing discussion of those

[23] We do not construe "available" to mean that playback facilities must be provided, only that a copy of requested recording itself be made available. Moreover, none of the parties who submitted comments specifically argued that a licensee has an obligation under the statute to provide such equipment. Absent a showing that the public interest would be benefitted by requiring licensees and entities to provide playback equipment, we refrain at this time from adopting rules to that effect. This decision, however, should not be construed as prohibiting licensees and entities from making such playback equipment available should they wish to do so.

[24] This provision would also extend to programs not produced locally which the licensee is required to record and retain, where, for one reason or another, an entity is not designated to record and retain the program for the licensee.

[25] Our reason for allowing seven days in one instance and twenty-one days in the other is relatively simple. We contemplate that there will be little delay attributable to mailing and delivery where only a local entity or licensee is involved. In cases where the entity may be located a substantial distance from the licensee, or from the party making the request, the amount of time for mailing and delivery would be significant.

[26] 47 U.S.C. 325(a).

[27] See "Farmers Educational and Cooperative Union v. WDAY, Inc.", 360 U.S. 525 (1959).

[28] 47 U.S.C. 390.

[29] 47 U.S.C. 396(g)(2)(B).

[30] 47 U.S.C. 396(g)(2)(C).

rules represents an attempt to resolve all conceivable problems which may arise. We have, instead, left many of these matters to the resourcefulness of the parties, preferring that they mutually agree on the resolution of questions concerning, for example, whether advance payment may be made in cash or by check, or whether an itemized statement of charges must be presented at the time of advance payment or at the time the requested recording is tendered to the party seeking access. Finally, it is our intention, and we would expect both licensees and entities to assume a similar view, that the rule of reasonableness prevail in the application of the sixty-day retention provision. Receipt of an access request by a licensee or entity at any time prior to the end of business hours on the sixtieth day should be interpreted as extending the retention period until the matter is finalized. We expect that any procedures adopted by the licensees will be consistent with the intent of the statute and will not deter members of the general public from availing themselves of access opportunities.

29. Authority for the adoption of the rules herein is contained in 47 U.S.C. 399 (b)(4), 4(i), 303(j) and (r).

30. *Accordingly, it is ordered*, That the rules set forth below are adopted, effective January 26, 1976.

31. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1088, 1082; (47 U.S.C. 154, 303))

Adopted: December 10, 1975.

Released: December 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX A

PARTIES FILING COMMENTS IN RESPONSE TO THE NOTICE OF PROPOSED RULE MAKING IN DOCKET NO. 19861.

Association of Public Radio Stations, (APRS)
Jack Straw Memorial Foundation and Poor People's Radio Incorporated, (Jack Straw)
KASU-FM, Arkansas State University, (KASU)
National Association of Educational Broadcasters, (NAEB)
Public Broadcasting Service, (PBS)
Rowley, III., Horace P., (Rowley)
WBUR, Boston University, (WBUR)
WGBH Educational Foundation, (WGBH)
WPLN, Nashville Public Library, (WPLN)
WSWP-TV, Beckley, West Virginia, (WSWP)

Joint Comments of Educational Broadcasters (EB)

Connecticut Educational Television Corp.
University of Illinois Board of Trustees
Central Michigan University
Lehigh Valley Educational Television Corp.
The University of Maine
The Regents of the University of Nebraska
Nebraska Educational Television Commission
Northeastern Pennsylvania Educational Television Ass'n.
South Carolina Educational Television Network
South Central Educational Broadcasting Council
Virginia Public Telecommunications Council
Board of Regents of the University of Wisconsin
State of Wisconsin Educational Communications Board

1. Section 73.127 is added to read as follows:

§ 73.127 Retention of audio recordings.

(a) Except as provided in paragraph (b) of this section, each licensee of a standard broadcast station which, after August 6, 1973, receives assistance pursuant to Part IV of the Communications Act of 1934, as amended, shall retain an audio recording of each of its broadcasts of any public affairs program in which any issue of public importance is discussed. Each such recording shall be retained for a period of sixty days commencing from the date on which the program was last broadcast.

(1) As used in this regulation, "assistance" is defined to mean receipt from federally-funded sources of (i) matching grants for the construction of noncommercial, educational broadcast facilities as provided for under Title III, Part IV of the Communications Act of 1934, as amended, (ii) grants for the production of educational television or radio programs for national or regional distribution as provided for under Title III, Part IV of the Communications Act of 1934, as amended, or (iii) payments to aid in the financing of either local programming or operational costs incurred by noncommercial, educational broadcast stations as provided for under Title III, Part IV of the Communications Act of 1934, as amended.

(b) The requirements of paragraph (a) of this section shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (a) of this section. *Provided*, That nothing within this paragraph shall be construed as absolving the licensee from responsibility for compliance with these rules in the event of an error or omission by a designated entity where the licensee has been involved in the access request and has failed to discharge that responsibility with reasonable diligence. A licensee shall record and retain audio recordings of all programs required to be retained by this regulation where an entity has not been delegated by the licensee to perform the requirements specified in paragraph (a) of this section.

(c) Each licensee or entity designated by a licensee under paragraph (b) of this section which retains an audio recording pursuant to paragraphs (a) and (b) of this section shall, in the period during which the recordings are required under paragraph (a) of this section to be retained, make a copy of such recording available:

(1) To the Commission upon its request, and

(2) To any other person who requests such a copy and makes advance payment to the licensee or designated entity (as the case may be) of its reasonable costs of making such a copy.

(d) All requests for copies of audio recordings made pursuant to this section shall be made within sixty days of the date on which the program was last broadcast, and shall be in written form containing detail sufficient to identify the requested program with reasonable certainty. Requests may be made either to the licensee, for its action, or if the designated entity is known to the requesting party, to the designated entity. The written request, which shall be retained for a period of three years by the licensee or entity to whom it is addressed, may be tendered in person or by correspondence at the licensee's main studio or principal place of business, or at the principal place of business of the designated entity. The licensee or designated entity shall be accorded a reasonable time commencing upon receipt of both the request and the payment in which to satisfy the request: *Provided*, That:

(1) Where there is recording and retention by either a licensee or designated entity located within the licensee's community of license, a reasonable time shall not exceed seven days from the date on which the request is actually received, and

(2) Where there has been recording and retention by a designated entity not located within the licensee's community of license, a reasonable time shall not exceed twenty-one days, commencing from the date the request is actually received.

NOTE 1: For purposes of this rule, "copy" is defined as a mechanical or magnetic reproduction of sound transcribed upon reel to reel tapes, cassettes, cartridges, dictabelts, recording discs, or other similar devices. The definition "copy" does not include written transcripts.

NOTE 2: A request is not actually received until such time as both a written request and advance payment have been received by the licensee or entity.

(e) A licensee or designated entity which provides a copy of an audio recording to a member of the general public pursuant to a request made under these rules may, as a condition precedent, require the party making the request to disclose his or her name and address.

(f) Revenues derived by a licensee or designated entity from fees charged pursuant to paragraph (c)(2) of this section shall not

(1) Exceed the reasonable costs of complying with paragraph (c) of this section,

(2) Nor shall the revenue be used to subsidize other facets of the licensee's or entity's business operations.

(g) A party who requests the production of a recording pursuant to the provisions of paragraph (c) of this section may require the licensee or designated entity to

(1) Provide a copy of an audio recording that is accurate, complete, intelligible, and capable of being audibly reviewed on playback devices commonly available to the general public, and

(2) Provide an itemized statement of the reasonable costs of making a copy of the requested program.

2. Section 73.600 is added to read as follows:

§ 73.600 Retention of audio recordings.

(a) Except as provided in paragraph (b) of this section, each licensee of a noncommercial, educational FM broadcast station which, after August 6, 1973, receives assistance pursuant to Part IV of the Communications Act of 1934, as amended, shall retain an audio recording of each of its broadcasts of any public affairs program in which any issue of public importance is discussed. Each such recording shall be retained for a period of sixty days commencing from the date on which the program was last broadcast.

(1) As used in this regulation, "assistance" is defined to mean receipt from federally-funded sources of (i) matching grants for the construction of noncommercial, educational broadcast facilities as provided for until Title III, Part IV of the Communications Act of 1934, as amended, (ii) grants for the production of educational television or radio programs for national or regional distribution as provided for under Title III, Part IV of the Communications Act of 1934, as amended, or (iii) payments to aid in the financing of either local programming or operational costs incurred by noncommercial, educational broadcast stations as provided for under Title III, Part IV of the Communications Act of 1934, as amended.

(b) The requirements of paragraph (a) of this section shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (a) of this section: *Provided*, That nothing within this paragraph shall be construed as absolving the licensee from responsibility for compliance with these rules in the event of an error or omission by a designated entity where the licensee has been involved in the access request and has failed to discharge that responsibility with reasonable diligence. A licensee shall record and retain audio recordings of all programs required to be retained by this regulation where an entity has not been delegated by the licensee to perform the requirements specified in paragraph (a) of this section.

(c) Each licensee or entity designated by a licensee under paragraph (b) which retains an audio recording pursuant to paragraphs (a) and (b) of this section shall, in the period during which the recordings are required under paragraph (a) of this section to be retained, make a copy of such recording available:

(1) To the Commission upon its request, and

(2) To any other person who requests such a copy and makes advance payment to the licensee or designated entity (as the case may be) of its reasonable costs of making such a copy.

(d) All requests for copies of audio recordings made pursuant to this Section shall be made within sixty days of the date on which the program was last broadcast, and shall be in written form containing detail sufficient to identify the requested program with reasonable certainty. Requests may be made either to the licensee, for its action, or if the designated entity is known to the requesting party, to the designated entity. The written request, which shall be retained for a period of three years by the licensee or entity to whom it is addressed, may be tendered in person or by correspondence at the licensee's main studio location or prinicipal place of business, or at the principal place of business of the designated entity. The licensee or designated entity shall be accorded a reasonable time commencing upon receipt of both the request and the payment in which to satisfy the request: *Provided*, That:

(1) Where there is recording and retention by either a licensee or designated entity located within the licensee's community of license, a reasonable time shall not exceed seven days from the date on which the request is actually received, and

(2) Where there has been recording and retention by a designated entity not located within the licensee's community of license, a reasonable time shall not exceed twenty-one days, commencing from the date the request is actually received.

NOTE 1: For purposes of this rule, "copy" is defined as a mechanical or magnetic reproduction of sound transcribed upon reel to reel tapes, cassettes, cartridges, dictabelts, recording discs, or other similar devices. The definition of "copy" does not include written transcripts.

NOTE 2: A request is not actually received until such time as both a written request and advance payment have been received by the licensee or entity.

(e) A licensee or designated entity which provides a copy of an audio recording to a member of the general public pursuant to a request made under these rules may, as a condition precedent, require the party making the request to disclose his or her name and address.

(f) Revenues derived by a licensee or designated entity from fees charged pursuant to paragraph (c) (2) of this section shall not

(1) Exceed the reasonable costs of complying with paragraph (c) of this section,

(2) Nor shall the revenue be used to subsidize other facets of the licensee's or entity's business operations.

(g) A party who requests the production of a recording pursuant to the provisions of paragraph (c) of this section may require the licensee or designated entity to

(1) Provide a copy of an audio recording that is accurate, complete, intelligible, and capable of being audibly reviewed on playback devices commonly available to the general public, and

(2) Provide an itemized statement of the reasonable costs of making a copy of the requested program.

§§ 73.623, 73.624 [Redesignated]

3. Part 73 of the Commission's Rules and Regulations is revised by redesignating § 73.622, *Applications for sharing of television channels*, and § 73.623, *Notification of filing of applications*, as § 73.623 and § 73.624 respectively, and by adding new § 73.622 to read as follows:

§ 73.622 Retention of audio recordings.

(a) Except as provided in paragraph (b) of this section, each licensee of a television broadcast station which, after August 6, 1973, receives assistance pursuant to Part IV of the Communications Act of 1934, as amended, shall retain an audio recording of each of its broadcasts of any public affairs program in which any issue of public importance is discussed. Each such recording shall be retained for a period of sixty days commencing from the date on which the program was last broadcast.

(1) As used in this regulation, "assistance" is defined to mean receipt from federally-funded sources of (i) matching grants for the construction of noncommercial, educational broadcast facilities as provided for under Title III, Part IV of the Communications Act of 1934, as amended, (ii) grants for the production of educational television or radio programs for national or regional distribution as provided for under Title III, Part IV of the Communications Act of 1934, as amended, or (iii) payments to aid in the financing of either local programming or operational costs incurred by noncommercial, educational broadcast stations as provided for under Title III, Part IV of the Communications Act of 1934, as amended.

(b) The requirements of paragraph (a) of this section shall not apply with respect to a licensee's broadcast of a program if an entity designated by the licensee retains an audio recording of each of the licensee's broadcasts of such a program for the period prescribed by paragraph (a) of this section: *Provided*, That nothing within this paragraph shall be construed as absolving the licensee from responsibility for compliance with these rules in the event of an error or omission by a designated entity where the licensee has been involved in the access request and has failed to discharge that responsibility with reasonable diligence. A licensee shall record and retain audio recordings of all programs required to be retained by this regulation where an entity has not been delegated by the licensee to perform the requirements specified in paragraph (a) of this section.

(c) Each licensee or entity designated by a licensee under paragraph (b) which retains an audio recording pursuant to paragraph (a) and (b) of this section shall, in the period during which the recordings are required under paragraph (a) of this section to be retained, make a copy of such recording available:

(1) To the Commission upon its request, and

(2) To any other person who requests such a copy and makes advance payment to the licensee or designated entity (as the case may be) of its reasonable costs of making such a copy.

(d) All requests for copies of audio recordings made pursuant to this Section shall be made within sixty days of

the date on which the program was last broadcast, and shall be in written form containing detail sufficient to identify the requested program with reasonable certainty. Requests may be made either to the licensee, for its action, or if the designated entity is known to the requesting party, to the designated entity. The written request, which shall be retained for a period of three years by the licensee or entity to which it is addressed, may be tendered in person or by correspondence at the licensee's main studio location or principal place of business, or at the principal place of business of the designated entity. The licensee or designated entity shall be accorded a reasonable time commencing upon receipt of both the request and the payment in which to satisfy the request: *Provided*, That:

(1) Where there is recording and retention by either a licensee or designated entity located within the licensee's community of license, a reasonable time shall not exceed seven days from the date on which the request is actually received, and

(2) Where there has been recording and retention by a designated entity not located within the licensee's community of license, a reasonable time shall not exceed twenty-one days, commencing from the date the request is actually received.

NOTE 1: For purposes of this rule, "copy" is defined as a mechanical or magnetic reproduction of sound transcribed upon reel to reel tapes, cassettes, cartridges, dictabelts, recording discs, or other similar devices. The definition of "copy" does not include written transcripts. Where the requested program is retained on film or video tape, a copy of the audio or sound track will suffice for purposes of this regulation.

NOTE 2: A request is not actually received until such time as both a written request and advance payment have been received by the licensee or entity.

(e) A licensee or designated entity which provides a copy of an audio recording to a member of the general public pursuant to a request made under these rules may, as a condition precedent, require the party making the request to disclose his or her name and address.

(f) Revenues derived by a licensee or designated entity from fees charged pursuant to paragraph (c) (2) of this section shall not,

(1) Exceed the reasonable costs of complying with paragraph (c) of this section,

(2) Nor shall the revenue be used to subsidize other facets of the licensee's or entity's business operations.

(g) A party who requests the production of a recording pursuant to the provisions of paragraph (c) of this section may require the licensee or designated entity to

(1) Provide a copy of an audio recording that is accurate, complete, intelligible, and capable of being audibly reviewed on playback devices commonly available to the general public, and

(2) Provide an itemized statement of the reasonable costs of making a copy of the requested program.

[FR Doc.75-34960 Filed 12-29-75;8:45 am]

[Docket No. 19790; RM-1660; FCC 75-1338]

PART 91—INDUSTRIAL RADIO SERVICES

Petroleum Radio Service; Expanded Use of Tone and Impulse Signalling

In the matter of amendment of Part 91 of the Commission's Rules to Permit Expanded Use of Tone and Impulse Signalling in the Petroleum Radio Service.

1. On July 23, 1973, the Commission released a Notice of Inquiry and Notice of Proposed Rule Making in the above entitled matter. The Notice was published in the FEDERAL REGISTER on July 30, 1973. (38 FR 20278)

2. In the Notice of Inquiry and Proposed Rule Making, we sought comments on our proposal first, to revise the rules to expand the permissible scope of secondary, point-to-point tone and impulse signalling operations on mobile service frequencies in the Power and more particularly in the Petroleum Radio Service.[1] Secondly, we proposed to implement state-of-the-art digital techniques by reducing the message length permitted from six to two seconds (including any redundancy desired) for new systems, and to provide for signalling techniques, which are not included within the A1, A2, F1, and F2 emission designators, by adding the A9 and F9 designators. In addition, it appeared that this secondary tone and impulse signalling capability could be extended to other land mobile radio services governed by Parts 89,[2] 91, and 93, and our Notice of Inquiry requested information regarding possible adoption of rules to permit secondary point-to-point tone signalling on mobile service frequencies in other services.

3. Comments were filed by Utilities Telecommunications Council (UTC), Central Committee on Communications Facilities of the American Petroleum Institute (API), National Association of Business and Educational Radio, Inc. (NABER), National Association of Manufacturers (NAM), Special Industrial Radio Service Association, Inc. (SIRSA), and the Central Station Electrical Protection Association. Reply comments were filed by Motorola, Inc.

4. We believe that the inquiry phase of the Notice relating to adoption of rules to permit secondary tone and impulse signalling in other radio services requires further study and will be considered at a later date. Therefore, the decisions herein deal with our proposal to revise the existing rules governing the use of tone and impulse signalling in the Power and Petroleum Radio Services.

5. The comments uniformally supported our proposal which would expand the permissible scope of secondary tone and impulse signalling as well as the proposal to add the A9 and F9 emission designators. The comments, however, were divided on our proposal to reduce the permissible message length from six to two seconds.

6. API agreed with our proposal to reduce the transmission length from six to two seconds, but suggested that we allow the message to be repeated a maximum of three times. SIRSA went along with the API comments on this issue. UTC argued, however, that the two-second message length limitation may not be appropriate in the utilities industry. Motorola, Inc., in reply comments, supported UTC's position, but added that this limitation would be appropriate in other services, such as the Business Radio Service. We have considered this issue carefully in light of the arguments presented in the comments, information that has come to our attention since the filing of the comments, and in light of our decisions in the rule making proceeding in Docket 19662[3] based on the comments and information submitted in that proceeding. We have determined that reduction of the message length is appropriate. We reached this conclusion because we believe that the state-of-the-art permits the development of radio equipment capable of performing the functions contemplated within the two-second restriction. Also, we believe that the tighter technical requirements are not only appropriate but necessary in view of our decisions to allow considerable increase in the permissible uses of tone and impulse signalling. Further, a uniform message length limitation across the board would encourage the production of equipment for use in many applications, thereby increasing the availability of equipment, at, hopefully, lower cost. Finally, we want to encourage the development of more efficient equipment for non-voice communications in the land mobile radio services for the more effective and efficient use of land mobile frequencies. Accordingly, the proposal to reduce the transmission length from six to two seconds will be adopted. This decision is consistent with our decision on this issue in Docket 19662 where we considered similar rules for the Public Safety Radio Services.

7. We agree, however, with the comments that the rules should allow these messages to be repeated and we have adopted the suggestion that three repetitions should be allowed. We have also agreed to permit automatic interrogation of outlying stations in view of the extensive use of computerized supervisory and control systems, but we have placed limits suggested in the comments to prevent abuse of this provision. Finally, we have recognized, as we did in Docket 19662, the extensive use of mobile relay systems, particularly on frequencies above 450 MHz, and have included provisions which will allow relay of tone and impulse signals through the higher power mobile relay station of such systems.

[1] The rule changes proposed would permit licensees in the two services to verify status of equipment, adjust operating conditions, correct abnormal conditions, and provide confirmation that the correction has been accomplished.

[2] Docket 19662 covered the expansion of secondary signalling operations under Part 89. Therefore, Part 89 is no longer involved in this proceeding.

[3] "Amendment of Part 89 to Permit Expanded Use of Tone and Impulse Signalling in the Public Safety Radio Services," Report and Order, Docket 19662, released May 14, 1975, 53 FCC 2d 134.

8. In addition, we agree with the comments that the new restrictions should apply to new systems, so as to avoid disruption of existing operations. Accordingly, "grandfather" provisions have been included in the rules which will allow continued operations and expansion of existing systems.

9. In brief, we believe that the rules we are adopting are timely and appropriate and should result in more efficient and effective use of mobile radio systems for tone and impulse signalling purposes. In reaching this conclusion we are not unmindful of the fears expressed by members of the utilities industry that the technical restrictions, particularly the two-second limitations, may inhibit the industry's plans for expanded use of the tone and impulse signalling capability. While nothing has been shown to substantiate those fears, if it is shown by experience that the two-second rule presents that industry with unusual problems, the matters can always be reexamined at a later date. We believe, however, that the anticipated problems can be resolved through technological improvements in equipment and techniques.

10. Finally, as proposed in the Notice, we are deleting the part of § 91.253(b) which says that authorization for F3 emission will be construed to include authority for the transmission of secondary tone and impulse signals. This is being done in order for the Commission to know whether a licensee is using a mobile frequency for a "fixed" operation. New applicants planning to use mobile frequencies secondarily for "fixed" operations will be required to so state on their application. The license issued will reflect this mode of operation by classifying the remote station (alarm site) as operational fixed with a 50 watt power limit and a non-voice emission designator, when appropriate. Licensees requesting renewal will also be required to supply the same information with their renewal application.

11. We have postponed the effective date of the "two second" rule to June 1, 1976, in order to provide manufacturers a reasonable opportunity to dispose of their inventories of non-complying equipment and to allow users to obtain authorizations for planned systems. However, authorizations for non-complying systems will be granted during the interim period only for the type of systems and for the purposes permitted under the previous rules.

12. Accordingly, pursuant to authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, *It is ordered*, That effective January 22, 1976, Part 91 of the Commission's Rules is amended, as shown below.

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

Adopted: December 9, 1975.

Released: December 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

The introductory text of § 91.252(f) and paragraphs (f) (1) and (2) are revised and paragraphs (f) (6) through (10) are added as follows:

§ 91.252 Availability and use of service.

* * * * *

(f) In the Power Radio Service, fixed (point-to-point) operations may be authorized for tone and impulse signalling on mobile service frequencies above 25 MHz within the area normally covered by the licensee's mobile system subject to the condition that harmful interference is not caused to the primary mobile service operation of any other licensee subject to the following limitations:

(1) The only purposes for which such secondary signalling may be used are:

(i) Indication of failure of equipment or service used in the production, transmission or distribution facilities of the licensee.

(ii) Indication of an abnormal condition in the production, transmission, or distribution facilities of the licensee, which if not promptly corrected would result in failure of the equipment affected.

(iii) Transmission from the point where alarms or other operational data are received as may be necessary to (*a*) verify status of equipment or processes (*b*) verify or adjust operating conditions (*c*) restore lost service (*d*) place standby equipment in operation or (*e*) to correct any abnormal conditions which would otherwise result in the immediate or continued failure in the production, transmission, or distribution facilities of the licensee.

(iv) Confirmation of status, or operating conditions, or that an operation or correction intended to be accomplished in paragraph (f) (1) (iii) of this section has occurred.

(2) For systems authorized after June 1, 1976, each transmission for any one alarm, warning, corrective action or requirement, positive confirmation, check-back, or other purpose set forth in paragraph (f) (1) of this section, Shall be limited to a maximum duration of two seconds and shall not be repeated more than five times. For systems authorized prior to June 1, 1976, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed six seconds.

* * * * *

(6) Systems employing automatic interrogation techniques shall not be activated for this purpose more than ten seconds out of any sixty second period. This 10 second time frame includes both transmit and response time.

(7) The plate power input to the final radio frequency stage of the remote transmitter (operational fixed) shall not exceed 50 watts.

(8) Only A1, A2, A9, F1, F2, or F9 emissions will be authorized.

(9) Operational fixed stations licensed under the provisions of this paragraph are exempt from the requirements of §§ 91.54(e) (2), 91.107(c) and § 91.152.

(10) Any operational fixed station authorized under the provisions of this paragraph shall be equipped with a device which will automatically de-activate the transmitter and require manual reset in the event the carrier of such transmitter remains on for a period in excess of three minutes.

2. Section 91.253(b) is revised and paragraph (c) is reserved as follows:

* * * * *

§ 91.253 Station limitations.

(b) Base, mobile relay, or mobile stations licensed in this service on frequencies above 25 MHz may transmit secondary tone or impulse signals to receivers at fixed locations subject to the conditions, and for the purposes set forth in Section 91.252(f).

(c) [Reserved]

* * * * *

3. Section 91.302 (d), (d) (1) and (2) are revised, and subparagraphs (6), (7), (8), (9) and (10) are added to read as follows:

§ 91.302 Availability and use of service.

* * * * *

(d) In the Petroleum Radio Service fixed (point-to-point) operations may be authorized for tone and impuse signalling on mobile service frequencies above 25 MHz within the area normally covered by the licensee's mobile system subject to the condition that harmful interference is not caused to the primary mobile service operation of any other licensee subject to the following conditions:

(1) The only purposes for which each secondary signalling may be used are:

(i) Indication of failure of equipment or service in the production, collection, refinery, or transportation facilities of the licensee.

(ii) Indication of an abnormal condition in the production, collection, refinery, or transportation facilities of the licensee which if not promptly corrected would result in failure of the equipment affected.

(iii) Transmission from the point where alarms or other operational data are received as may be necessary to (*a*) verify status of equipment or processes (*b*) verify or adjust operating conditions or (*c*) to correct any abnormal conditions which would otherwise result in the immediate or continued failure in the production, collection, refinery, or transporting facilities of the licensee.

(iv) Confirmation of status, or operating conditions, or that an operation or correction intended to be accomplished in paragraph (d) (1) (iii) of this section has occurred.

(2) For systems authorized after June 1, 1976, to be used for the purposes outlined in paragraph (d) (1) of this section, the maximum duration of any one transmission may not exceed two seconds and shall not be transmitted more than three times. For systems authorized prior to this date, any one alarm or warning may be transmitted a maximum of five times and each transmission may not exceed six seconds.

* * * * *

(6) Systems employing automatic interrogation techniques shall not be activated for this purpose more than ten seconds out of any sixty second period. This 10 second time frame includes both the transmit and response times.

(7) The plate power input to the final radio frequency stage of the remote transmitter (operational fixed) shall not exceed 50 watts.

(8) Only A1, A2, A9, F1, F2, or F9 emissions will be authorized.

(9) Operational fixed stations licensed under the provisions of this paragraph are exempt from the requirements of §§ 91.54(e)(2), 91.107(c), and § 91.152.

(10) Any operational fixed station authorized under the provisions of this paragraph shall be equipped with a device which will automatically de-activate the transmitter and require manual reset in the event the carrier of such transmitter remains on for a period in excess of three minutes.

4. Section 91.303(b) is revised to read as follows:

§ 91.303 Station limitations.

* * * * *

(b) Base, mobile relay, or mobile stations licensed in this service on frequencies above 25 MHz may transmit secondary tone or impulse signals to receivers at fixed locations subject to the conditions and for the purposes set forth in § 91.302(d).

* * * * *

[FR Doc.75-34958 Filed 12-29-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Amdt. No. 6 to Revised Service Order No. 995]

PART 1033—CAR SERVICE

Appointment of Embargo Agents

DECEMBER 23, 1975.

At a Session of the INTERSTATE COMMERCE COMMISSION, Division 3, held in Washington, D.C., on the 19th day of December, 1975.

Upon further consideration of Revised Service Order No. 995 (35 F.R. 7016; 36 F.R. 23726; 37 F.R. 28301; 38 F.R. 35002; and 39 F.R. 44011), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 995 be, and it is hereby amended by revising paragraph (f) as follows:

§ 1033.995 Appointment of Embargo Agents.

* * * * *

(f) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

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

By the Commission, Division 3.

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

[FR Doc.75-35075 Filed 12-29-75;8:45 am]

[Amdt. No. 6 To Revised Service Order No. 1002]

PART 1033—CAR SERVICE

CAR DISTRIBUTION DIRECTIONS

Appointment of Agents

DECEMBER 23, 1975.

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 19th day of December, 1975.

Upon further consideration of Revised Service Order No. 1002 (35 F.R. 7016; 36 F.R. 23803; 37 F.R. 28301; 38 F.R. 35002; and 39 F.R. 44011), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 1002 be, and it is hereby amended by revising paragraph (d) as follows:

§ 1033.1002 Car Distribution Directions—Appointment of Agents.

* * * * *

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

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

By the Commission, Division 3.

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

[FR Doc.75-35073 Filed 12-29-75;8:45 am]

[Amdt. No. 6 To Revised Service Order No. 994]

PART 1034—ROUTING OF TRAFFIC

REROUTING OF TRAFFIC

Appointment of Agents

DECEMBER 23, 1975.

At a Session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 19th day of December, 1975.

Upon further consideration of Revised Service Order No. 994 (35 F.R. 7017; 36 F.R. 23726; 37 F.R. 28301; 38 F.R. 35002; and 39 F.R. 44011), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 994 be, and it is hereby amended by revising paragraph (d) as follows:

§ 1034.994 Rerouting of Traffic—Appointment of Agents.

* * * * *

(d) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1976, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

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

By the Commission, Division 3.

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

[FR Doc.75-35074 Filed 12-29-75;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Nunivak National Wildlife Refuge, Alaska; Correction

In the FEDERAL REGISTER for July 31, 1975, Volume 40, No. 148, page 32128, third column, entry (a), an error is corrected by changing the date March 30, 1976, to March 31, 1976.

Dated: December 22, 1975.

HARVEY K. NELSON, *Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc.75-35004 Filed 12-29-75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Notice of Proposed Changes in Customs Region IX

A survey of the Customs activity at Mackinac Island, Michigan, in the Detroit, Michigan, Customs district (Region IX), indicates that the volume of traffic no longer justifies its retention as a Customs station.

Accordingly, notice is hereby given that, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to the authority provided by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, it is proposed to revoke the designation of Mackinac Island, Michigan, in the Detroit, Michigan, Customs district (Region IX), as a Customs station.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than January 29, 1976.

Written material or suggestions submitted will be available for public inspection in accordance with section 103.8 (b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: December 17, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-35039 Filed 12-29-75;8:45 am]

[19 CFR Part 12]

SPECIAL CLASSES OF MERCHANDISE

Importation of Motor Vehicles and Motor Vehicle Equipment; Extension of Time

DECEMBER 22, 1975.

Notice of proposed amendments to Part 12 of the Customs Regulations (19 CFR Part 12), to make certain substantive changes in the procedures established for the entry of motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards, was published in the FEDERAL REGISTER on November 20, 1975 (40 FR 54002). Pursuant to that notice, the public was given until December 22, 1975, to submit data, views or arguments pertaining to the proposed amendments.

Requests have been received for an extension of the time for the submission to submit data, views, or arguments persubmission of data, views, or arguments with respect to the cited amendments is extended to January 22, 1976.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.75-35040 Filed 12-29-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

OPERATION AND MAINTENANCE CHARGES

Wind River Irrigation Project, Wyoming

Basis and Purpose. Notice is hereby given that pursuant to the authority contained in the Acts of Congress approved August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210), and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs (Order No. 2508; 14 FR 258), and virtue of the authority delegated by the Commissioner of Indian Affairs to the Area Director 14 IAM 3.1 (34 FR 637, January 16, 1969), and by authority delegated to the Project Engineer and to the Superintendent by the Area Director June 1, 1969, Release 10-2, 10 IAM 7.2, § 2.70, notice is hereby given of the intention to modify § 221.95 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Wind River Irrigation Project, Wyoming.

The purpose of this amendment is to raise the operation and maintenance assessment charges of the Diminished Wind River Irrigation Project for the 1976 irrigation season and subsequent seasons until further notice.

It is also the purpose of this amendment to eliminate all reference to the Big Bend Drainage District and the annual assessment per acre due this District. A court order dated October 3, 1975, to dissolve this District has been issued with the result that all expenses hereafter necessary to maintain the facilities of the Big Bend Drainage District, which are within the Ceded Wind River Irrigation Project, also known as the LeClair Irrigation District, will be borne by the Ceded Wind River Irrigation District.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed amendment to the Superintendent, Bureau of Indian Affairs, Fort Washakie, Wyoming 82514, on or before January 29, 1976.

Section 221.95 is amended to read as follows:

§ 221.95 Charges.

In compliance with the provisions of the acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 25 U.S.C. 385; 45 Stat. 210, 25 U.S.C. 387), the operation and maintenance charges for the lands under the Wind River Irrigation Project, Wyoming, for the calendar year 1976 and subsequent years until further notice, are hereby fixed at $5.60 per acre for the assessable area under the constructed works on the Diminished Wind River Project and at $4.20 per acre for all irrigable trust patent Indian Land which lies within the Ceded Wind River Project.

CLYDE W. HOBBS,
Superintendent, Wind River Agency.

[FR Doc.75-34953 Filed 12-29-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 91, 121, 123, 135]

[Docket No. 9481; Reference Notice No. 72-17]

LANDING MINIMUMS

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 72-17 (37 FR 14406; July 20, 1972) in which the FAA solicited comments on proposed amendments to Parts 91, 121, and 135 of the Federal Aviation Regulations that would establish criteria for the commencement of instrument approaches and update and clarify the requirements applicable to the instrument landing procedures.

The FAA received 159 public comments in response to Notice 72-17. One hundred and eleven commentators expressed opposition to some or all of the proposals.

A large number of commentators objected to the prohibition in proposed § 91.116(b) against making a "look-see" approach when the reported visibility is less than the prescribed minimum. The reasons given were numerous.

Several commentators found it inconsistent to permit the pilot to make an approach at airports which have no weather reports (and normally also have fewer approach aids) but, on the other hand, to deny him this privilege at airports which have official weather reports and which in many cases have more approach aids. Others contended that it would encourage the use of airports with less sophisticated equipment.

Many commentators felt that the proposal would be an unnecessary restriction on qualified pilots. A number contended that the unsafe pilot cannot be legislated against and that the answer is education.

One commentator asserted that, in light of the serious deficiencies in present weather observing and reporting facilities and services, instrument-rated pilots operating under Part 91 should be permitted to make an approach to the minimum descent altitude (MDA) or decision height (DH), regardless of the presence or absence of official weather observations. A number of commentators challenged the validity of weather reports by ground observers. Among other things, they expressed the opinion that flight visibility as observed from the cockpit during an approach is more representative of actual conditions in the runway approach area than that of a ground observer.

For similar reasons, objections were also raised to not allowing a "look-see" approach for aircraft operated under Part 135. Some commentators contended that this would be especially burdensome in Alaska where the alternate airport may be a considerable distance from the airport of intended landing.

Several commentators recommended that the list of visual cues referred to in the proposed revision of §§ 91.6 and 91.116, the sighting of one of which would allow the pilot to descend below authorized DH or MDA, should be expanded.

Other commentators recommended that an exception be made to the prohibition against a "look-see" to allow training flights to be conducted to MDA or DH when the reported weather is below minimums but there is no intent to land.

In the light of all the comments received in response to Notice 72-17, it is clear that the proposed amendments require further study before any further rulemaking action can be initiated. Accordingly, the FAA has determined that rulemaking action on the proposed amendments would not be appropriate at this time, and that Notice 72-17 should be withdrawn.

Withdrawal of this notice constitutes only such action and does not preclude the FAA from issuing other notices in the future or commit the FAA to any course of action in the future.

This withdrawal is issued under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, the notice of proposed rule making published in the FEDERAL REGISTER June 20, 1972 (37 FR 14406), and circulated as Notice No. 72-17 entitled "Landing Minimums" is hereby withdrawn.

Issued in Washington, D.C., on December 19, 1975.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.75-34940 Filed 12-29-75;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-291A; Docket 28517]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Updating the Accounting Provisions; Supplemental Notice of Proposed Rulemaking

DECEMBER 23, 1975.

The Board, by circulation of Notice of Proposed Rulemaking, EDR-291, dated November 19, 1975, published at 40 FR 54813, November 26, 1975, gave notice that it has under consideration an amendment of Part 241 of its Economic Regulations (14 CFR 241). The amendment would update the accounting provisions to recognize changes in accounting principles and developments in air transportation. Interested persons were invited to participate by submission of twelve (12) copies of written data, views or arguments to the Docket Section of the Board on or before December 26, 1975.

United Air Lines, Inc., by telephone request on December 22, 1975 (confirmed by written request on December 23, 1975), has requested a two week extension of the time within which to file comments, on the grounds that, because of its recent strike, it has now become apparent that United will be unable to file its comments by the due date.

The undersigned finds that good cause has been shown for an extension of the time for filing comments.

Accordingly, pursuant to the authority delegated in Section 385.21(d) of the Board's Organization Regulations (14 CFR Part 385), the undersigned hereby extends the time for submitting comments to January 5, 1976. (Sec. 204(a) of the Federal Aviation Act, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

[SEAL] SIMON J. EILENBERG,
Acting Associate General Counsel,
Rules Division.

[FR Doc.75-35059 Filed 12-29-75;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

706 AGENCIES

Proposed Designation

Pursuant to § 1601.12(i), Title 29, Chapter 14 to the Code of Federal Regulations as revised and published in the FEDERAL REGISTER, 40 FR 3210M, March 7, 1975, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) proposes that the agencies listed below be designated as "706 Agencies" (§ 1601.12(c)). There are three (3) purposes for such designation: first, that the agencies receive charges deferred by the Commission pursuant to section 706 (c) and (d) of Title VII of the Civil Rights Act of 1964, as amended; second, that the Commission accord "substantial weight" to the final findings and orders of those agencies pursuant to § 1601.19b(e); and third, to commence the 15-day period within which any person or organization may file written comments as provided for under § 1601.12 (i)(1). At the expiration of the 15-day period, the Commission may effect designation of each of the agencies by publishing the list of them as an amendment to § 1601.12(m). Additions to the list may be made by the Commission by similar notice and publication. The proposed "706 Agencies" are as follows:

Allentown (Pennsylvania) Human Relations Commission
Charleston (West Virginia) Human Rights Commission
Fairfax County (Virginia) Human Rights Commission
Montgomery County (Maryland) Human Relations Commission
Pittsburgh (Pennsylvania) Commission on Human Relations
Wheeling (West Virginia) Human Rights Commission

(Sec. 713(a), 78 Stat. 265 (42 U.S.C. 2000e-12(a)))

Written comments pursuant to this notice must be filed with the Commission on or before January 23, 1976.

Signed at Washington, D.C. this 22nd day of December 1975.

LOWELL W. PERRY,
Chairman, Equal Employment Opportunity Commission.

[FR Doc.75-35030 Filed 12-29-75;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 440]

HEARING AID INDUSTRY

Final Notice Regarding Proposed Trade Regulation Rule

On June 24, 1975, the Commission published in the FEDERAL REGISTER (40 FR 26646) an Initial Notice of a proposed trade regulation rule for the hearing aid industry pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and Rules of Practice, 16 CFR 1.7, et seq., and § 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure).

Now, pursuant to the same authority and more specifically to the authority of § 1.12 of the Commission's Procedures and Rules of Practice, the undersigned duly appointed Presiding Officer for this proceeding hereby gives Final Notice of proposed rulemaking, incorporating by reference the contents of the Initial Notice described above, including the proposed rule contained therein.

Written Comments. All interested persons are hereby notified that they may submit written data, views or arguments on any issue of fact, law, policy or discretion which may have some bearing upon the proposed rule. Such comments should be addressed to G. Martin Shepherd, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580 no later than February 27, 1976. To assure prompt consideration comments should be identified as "HEARING AID INDUSTRY COMMENT" and submitted, if at all possible, in five copies.

Public hearing dates and places. Notice is also given that public hearings on the proposed rule will be held at the locations set forth below commencing on the dates and times specified at each location:

1. Public hearings will commence on April 12, 1976 at 9:45 a.m. in Washington, D.C.:

Room 332, Federal Trade Commission Building, 6th and Pennsylvania Avenue, N.W., Washington, D.C.

Persons desiring to present their views orally in Washington, D.C., should so inform the Commission representative listed below not later than March 22, 1976:

Mr. Steven D. Newburg-Rinn [(202) 724-1483], Bureau of Consumer Protection, Division of National Advertising, Federal Trade Commission, Washington, D.C. 20580.

2. Public hearings will be held commencing on June 7, 1976 at 9:45 a.m. in Chicago, Illinois:

Room 347 A-B, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois.

Persons desiring to present their views orally in Chicago should so inform the Commission representative listed below not later than May 17, 1976:

Mr. Richard J. Toman [(312) 353-4430], Federal Trade Commission, Suite 1437, 55 East Monroe Street, Chicago, Illinois 60603.

3. Public hearings will be held commencing on August 2, 1976 at 9:45 a.m. in San Francisco, California:

Room 12138, Federal Building, 450 Golden Gate Avenue, San Francisco, California.

Persons desiring to present their views orally in San Francisco should so inform the Commission representative listed below not later than July 12, 1976:

Mr. Fred Austin [(415) 556-1270], Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, California 94102.

INSTRUCTIONS TO WITNESSES

All prospective witnesses are advised that reasonable limitations on the time allotted to any person may be imposed and that these time periods may vary from witness to witness depending upon all the circumstances, including the needs of each witness, the complexity of the expected testimony, the number of parties represented by each witness and the cumulative nature of expected testimony. Witnesses will be expected to stay within the time allotted for their remarks and the Presiding Officer may allocate additional time for questioning. To the extent that individual views are not unduly suppressed, individual members of interested groups are encouraged to make their views known through group representatives. As a general rule, witnesses are expected to confine their prepared remarks to twenty minutes or less, unless an exception has been made, and to develop their testimony at greater length through their written submissions. Witnesses are entitled to testify only at one hearing site.

Persons wishing to deliver prepared statements are required to file such statements with the appropriate Commission representative listed above no later than March 22, 1976 for those witnesses appearing in Washington, D.C.; no later than May 17, 1976 for those witnesses appearing in Chicago, Illinois; and no later than July 12, 1976 for those witnesses appearing in San Francisco. If at all possible, witnesses should furnish ten copies of their statements. Any witness not intending to deliver a statement fully prepared in advance is required to file with the designated Commission representative (by the same date set forth above for the filing of written statements at the location where he expects to appear) a written detailed and comprehensive outline explaining the nature of his expected testimony including, but not limited to, a statement of each important fact, observation, conclusion, or opinion he anticipates presenting.

Advance submittal of statements and exhibits is required to apprise other interested parties of expected testimony so they may determine on the need for examination, including cross-examination, or rebuttal submissions. Such submittals will be made available for viewing by the Commission representatives designated above at the location where the witness intends to appear.

The Presiding Officer retains the discretion to require that any oral presentation be submitted in writing in advance of presentation and to deny the right to present oral testimony to any person who fails to file appropriate statements or comply with the advance notification requirements of this Notice.

Prospective witnesses who plan to introduce documents or other written evidence as exhibits to their statements must furnish such documents or written evidence, properly identified with the witness' name and sequential number (i.e., Jackson Exhibit-1), by the same dates set out above for the filing of expected testimony, depending on the location at which the witness intends to appear, unless for good cause shown they can demonstrate why this could not have been done at that time.

All prospective witnesses may and, indeed, are encouraged to direct their statements towards any question of fact, law, policy or discretion relevant to the proposed rule, and, in this regard, the usual rules of evidence applicable to litigated proceedings will not apply. However, all prospective witnesses are advised that to the extent their statements may bear upon any of the designated issues set forth below, or to be later designated, they may be subject to limited cross-examination as to those issues by representatives of other interested parties, as designated by the Presiding Officer, or to cross-examination by the Presiding Officer on behalf of such representatives, or to direct rebuttal submissions. All witnesses will be subject to direct examination by the Presiding Officer and, subject to his control, to examination by such interested parties as he may within his discretion permit. Oral presentations will not be under oath unless the Presiding Officer expressly so provides.

DESIGNATED ISSUES

Set forth below are the issues which the Presiding Officer has determined to designate under § 1.13(d)(1) of the Commission's procedures and rules of practice as issues to be considered in accordance with § 1.13(d) (5) and (6) of said Procedures and Rules of Practice. Pursuant to statute and the Commission's rules of practice, testimony with respect to these issues may entitle designated representatives of other interested parties to conduct or have conducted such cross-examination as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issue so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional oral or written statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by interested persons, add to or modify any issues listed. No such petition shall be considered unless good cause is shown why such issue was not proposed during the time specified in the Initial Notice.

Interested persons who desire to avail themselves of the procedures described above with respect to designated issues must, by January 26, 1976, notify the Presiding Officer in writing of their particular interest with respect to each issue designated, including a general statement of their position with respect to such issues. In the event new issues are added interested persons must promptly notify the Presiding Officer to their particular interest with respect to each such issue in the same manner. Request to examine, including cross-examine, or to present rebuttal submissions, shall be accompanied by a specific justification therefor.

Before the hearings commence, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of examination, including cross-examination, and, if unable to agree, the Presiding Officer may select a representative of each such group. Any member of a group who is unable to agree upon group representation after a good faith effort to do so, and who seeks to present substantial and relevant issues which will not be adequately presented by the group representative, may be allowed to conduct or have conducted any

examination, including cross-examination, or rebuttal submissions, to which he is entitled on issues designated for consideration in accordance with this Notice.

GENERAL ISSUES

1. As relevant to the Proposed Rule, what are the sales techniques employed by sellers (at any and/or all levels of distribution) in connection with the offering for sale and/or sale of hearing aids? In what respects could such techniques have the capacity or tendency to deceive consumers, and how might such techniques be unfair to consumers? How prevalent are such techniques?

2. How are hearing aid sellers trained, motivated, and controlled? How does that training, motivation, and control bear on whether consumers are subjected to selling abuses or whether consumers purchase hearing aids that provide no significant benefit?

3. In connection with the offering for sale and sale of hearing aids, are existing consumer protection measures (including, but not limited to those relating to cooling off periods) adequate to protect purchasers?

4. What will be the economic effect of the Rule, taking into account the effects on small business and consumers?

BUYER'S RIGHT TO CANCEL (§ 440.4)

5. Do a significant number of consumers buy hearing aids from which they receive no significant benefit (or no significant additional benefit if they are current hearing aid users buying a second hearing aid or a "better" hearing aid)?

6. Is it necessary for a significant number of prospective hearing aid buyers to wear the selected hearing aid in a representative variety of actual use situations before it can be determined whether a significant benefit (or a significant additional benefit) will in fact be received?

7. Are there a significant number of prospective hearing aid buyers who cannot determine the relative importance to themselves of the advantages and limitations of a hearing aid without wearing the selected hearing aid in a representative variety of actual use situations?

8. Are the "cancellation charges" permitted by § 440.4(g)(1) high enough to effectively discourage casual or frivolous cancellations?

9. What would be an appropriate 30 day cancellation charge in situations where the sale of two hearing aids (one for each ear) is involved?

SELLING TECHNIQUES (§ 440.7)

10. Do "master hearing aids" or similar devices perform in a materially different manner from the actual performance (in actual use situations) of the hearing aids sold to consumers? To what extent are "master hearing aids" or similar devices utilized to demonstrate the performance a consumer can expect from a hearing aid? (§ 440.7(a))

11. Will the requirement that a seller obtain express written consent from prospective hearing air buyers, prior to making visits to their homes or places of business (for the purpose of selling hearing aids) enhance the ability of such buyers to protect themselves against deceptive or unfair acts or practices (including high pressure sales tactics) which might be used by the seller? (§ 440.7(b))

12. Does failure to disclose previous use of a hearing aid have the capacity or tendency to mislead consumers as to a fact material to them in making their decision as to whether to purchase the particular hearing aid? (§ 440.7(c))

13. Does the offering of a hearing test, without disclosure at the outset that the tester is a seller of hearing aids and may attempt to sell a hearing aid to the person being tested, have the capacity or tendency to mislead consumers as to (a) the status of the person doing the testing and/or (b) the true nature or purpose of the offer and test? (§ 440.7(d))

14. Does an advertisement which is not readily recognizable as an advertisement by the audience to whom it is addressed have the capacity or tendency to mislead consumers as to the nature and/or purpose of the communication? (§ 440.7(e))

PROHIBITED REPRESENTATIONS CONCERNING HEARING AID SELLERS (§ 440.8)

15. Does a representation by a seller of hearing aids (concerning hearing or hearing aids), without disclosure that such person is in fact a seller, have the capacity or tendency to lead consumers to believe (a) that such representation is not designed to effect the sale of a hearing aid, or (b) that the person making such representation is financially disinterested with respect to the matters covered in the representation? (§ 440.8(a))

16. Does the use of the terms set forth by way of example in § 440.8(b) have the capacity or tendency to lead consumers to believe that the organization being described is something other than a retail sales outlet (i.e., a governmental or other public service organization or a nonprofit medical, educational, or research institution)? (§ 440.8(b))

17. Does the representation that a seller of hearing aids (or the seller's employee, agent, salesperson, representative, or associate) is a physician or audiologist, when such is not the fact, have the capacity or tendency to mislead consumers as to (a) the training, skill, knowledge, specialty, and/or experience of such person, or (b) the nature of the enterprise engaged in by any such person? (§ 440.8(c) and (d))

18. Do the terms "counselor" and/or "consultant" have the capacity or tendency to lead consumers to believe that the individual so described can be relied upon to provide an expert and financially disinterested recommendation as to what should be done to deal with the consumer's perceived hearing problem? (§440.8(e))

PROHIBITED REPRESENTATIONS CONCERNING HEARING AIDS (§ 440.9)

19. Will any hearing aid restore or help restore normal or natural hearing, or enable wearers to hear sounds normally or naturally? (§ 440.9(a))

20. Do the expressions set forth by way of example in § 440.9(b) have the capacity or tendency to lead consumers to believe that any hearing aid will reverse, halt or retard the progression of hearing loss, or will help to do so? (§ 440.9(b))

21. Does the word "new", when used to describe hearing aid models, or features thereof, which have been on the market for more than one year, have the capacity or tendency to mislead consumers? (§ 440.9(c))

22. Do representations that a hearing aid possesses a general or specific feature or characteristic, or that it embodies any particular concept or principle, have the capacity or tendency to lead consumers to believe that (with respect to such feature, characteristic, concept, or principle) the advertised hearing aid will (a) provide some significant benefit(s) to the wearer (b) regardless of the wearer's particular type of hearing impairment? (§ 440.9(e))

23. Do representations in which a particular hearing aid is being compared to any other hearing aid(s) have the capacity or tendency to (a) mislead consumers as to what hearing aid(s) the particular hearing aid is being compared to when the representation is in the form of a dangling (incomplete) comparison; or (b) lead consumers to believe that the particular hearing aid is superior with respect to any characteristic being compared? (§ 440.9(e)(6))

24. Do representations that a hearing aid model is unique, special, or revolutionary, with respect to some particular characteristic, have the capacity or tendency to lead consumers to believe that the advertised model is being compared to all other hearing aid models with respect to such characteristic? (§ 440.9(f))

25. When a hearing aid is represented as being "smaller" than other hearing aids, would the fact that it produces sound of less quality and range than those with which it is being compared be a material fact which might influence the potential purchaser's decision of whether to purchase it? (§ 440.9(g))

26. Do the terms "prescribe" and "prescription" when used in connection with hearing aids, have the capacity or tendency to mislead consumers as to the extent to which hearing aids can correct hearing loss? (§ 440.9(h))

27. Do the words and phrases set forth by way of example in § 440.9(j), when used to describe a hearing aid or part thereof, have the capacity or tendency to lead consumers to believe that the hearing aid, or part thereof, so described is hidden or cannot be seen? (§ 440.9(j))

28. Do the words and phrases set forth by way of example in § 440.9(k) have the capacity or tendency to lead consumers to believe that the hearing aid so described can be worn without any visible cord or wire? (§ 440.9(k))

29. Do the words and phrases set forth by way of example in § 440.9(l) have the

capacity or tendency to lead consumers to believe that the hearing aid so described can be worn without any button or other receiver in the ear? (§ 440.9(*l*))

30. Can any hearing aid or feature thereof enable the wearer to eliminate all or most unwanted noises? (§ 440.9 (m))

31. What effect does a representation that a hearing aid can operate without batteries have on consumer beliefs or perceptions as to the operation of the particular hearing aid? (§ 440.9(n))

ADVERTISING REPRESENTATIONS THAT MUST BE QUALIFIED (§ 440.10)

32. Would many of those who think they have a hearing problem (and, therefore, might buy a hearing aid) not be able to receive any significant benefit from the use of any hearing aid? (§ 440.10(a))

33. Would many of those who can benefit from the use of a hearing aid still have difficulty understanding conversation in noisy situations? (§ 440.10 (b))

34. Would many of those who can benefit from the use of a hearing aid still have difficulty understanding conversation in group situations? (§ 440.10 (c))

35. Would many persons with a hearing loss in both ears fail to receive greater benefits from the use of two hearing aids, one in each ear, than from the use of one hearing aid? (§ 440.10(d))

SUMMARY OF CLOSING DATES

1. Notification of interest; January 26, 1976.

2. All written comments; February 27, 1976.

3. Witnesses' prepared statements (or comprehensive summaries) and exhibits for:

(a) Washington, D.C. hearing; March 22, 1976;

(b) Chicago hearing; May 17, 1976;

(c) San Francisco hearing; July 12, 1976.

SUMMARY OF HEARING DATES

1. Washington, D.C.; April 12, 1976.
2. Chicago, Illinois; June 7, 1976.
3. San Francisco, California; August 2, 1976.

Issued: December 23, 1975.

G. MARTIN SHEPHERD,
Presiding Officer.

[FR Doc.75-35021 Filed 12-29-75;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 THE TREASURY

Customs Service

[TMK-2-R:E:R]

EUROTIME

Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 12 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name EUROTIME used by Eurotime Corporation, a corporation organized under the laws of the State of New York, located at 212 Fifth Avenue, New York, New York 10010.

The application states that the trade name is applied to watches and clocks and components for each, manufactured in Switzerland, West Germany, France and Hong Kong. The application states further that no foreign person, partnership, association or corporation is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than January 28, 1976.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

DECEMBER 22, 1975.

[FR Doc.75-35041 Filed 12-29-75;8:45 am]

Internal Revenue Service

[Order No. 112 (Rev. 3)]

DISTRICT DIRECTORS OF REVENUE

Authority To Issue Determination Letters Relating to Employee Plans Matters

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, there is hereby delegated to the District Director of Internal Revenue for each of the Key Districts for Employee Plans and Exempt Organizations matters the authority to:

(1) Issue determination letters involving the provisions of sections 401, 405, and 501(a) of the Internal Revenue Code of 1954 with respect to:

(a) Initial qualification of stock bonus, pension, profit-sharing, annuity, and bond purchase plans;

(b) Initial exemption from Federal income tax under section 501(a) of trusts forming a part of such plans, provided that the determination does not involve application of section 502 (feeder organizations) or section 511 (unrelated business income), or the question of whether a proposed transaction will be a prohibited transaction under section 503;

(c) Compliance with the applicable requirements of foreign situs trusts as to taxability of beneficiaries (section 402(c)) and deductions for employer contributions (section 404(a)(4)); and

(d) Amendments, curtailments, or terminations of such plans and trusts.

(2) Issue determination letters involving the provisions of section 408(c) of the Internal Revenue Code of 1954 with respect to exemption from Federal income tax under section 408(e) of trusts creating individual retirement accounts.

(3) Issue determination letters with respect to whether a plan consitutes and employee stock ownership plan as contemplated in section 46(a)(1)(B) of the Internal Revenue Code of 1954.

(4) Issue modifications or revocations of determination letters described above.

(5) Redelegate this authority as follows:

(a) With respect to issuance and modification of determination letters, not below Internal Revenue Agent and Tax Law Specialist, GS-12, provided such individual is a person other than the initiator.

(b) With respect to revocation of determination letters, not below Chief, Employee Plans and Exempt Organizations Division.

Delegation Order No. 112 (Rev. 2) issued June 9, 1975, is hereby superseded.

Effective: November 19, 1975.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-35080 Filed 12-29-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE ROTC ADVISORY PANEL

Meeting

DECEMBER 16, 1975.

The Air Force ROTC Advisory Panel will hold a meeting on January 29, 1976 from 8:00 a.m. to 5:00 p.m. at Maxwell Air Force Base, Building 800, Montgomery, Alabama.

The purpose of the meeting is to review the status of Air Force ROTC and to discuss related management improvement programs.

Meeting is open.

For further information, contact Executive Secretary, AFROTC Advisory Committee, 697-3055.

JAMES L. ELMER,
Major, USAF Executive,
Directorate of Administration.

[FR Doc.75-34799 Filed 12-29-75;8:45 am]

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 18, 1975.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Composites Technology will hold a meeting on January 29-30, 1976: 1:00 p.m. to 5:30 p.m. on January 29 and from 8:30 a.m. to 4:30 p.m. on January 30, at the Pentagon, Washington, D.C.

The Committee will receive informational briefings on Air Force composites technology, and will be open to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

JAMES L. ELMER,
Major, USAF, Executive,
Directorate of Administration.

[FR Doc.75-34999 Filed 12-29-75;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 19, 1975.

The USAF Scientific Advisory Board TOA/DME Steering Group will hold meetings in the Pentagon on January 19, 1976, Room 5C-1034 and January 20, 1976, Room 5C-1040 from 9:00 a.m. to 5:00 p.m. both days.

The Group will receive classified briefings and hold classified discussions on the status and plans for the Air Force Advanced Location Strike System (ALSS) Program. There will be a classified intelligence briefing on threat radar technology. The Group will also meet in Executive Session to discuss future efforts/tasks.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

JAMES L. ELMER,
Major, USAF, Executive,
Directorate of Administration.

[FR Doc.75-35000 Filed 12-29-75;8:45 am]

Office of the Secretary of Defense

DDR&E HIGH ENERGY LASER REVIEW GROUP (HELRG) LASER BEAM CONTROL SUBPANEL

Notice of Closed Meeting

Pursuant to the provisions of Section 10 of Appendix I, Title 5, United States Code, notice is hereby given that a closed meeting of the DDR&E High Energy Laser Review Group Laser Beam Control Subpanel will be held at 0900 on Monday, January 19, 1976, at the Naval Surface Weapons Center, Silver Spring, Maryland. The purpose is to review matters pertaining to the Department of Defense high energy laser program.

The subject matter of the meeting is classified in accordance with subparagraph (1) of Section 552(b) of Title 5 of the U.S. Code.

Dated: December 22, 1975.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

[FR Doc.75-34800 Filed 12-29-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON DEPARTMENT OF DEFENSE SPACE SHUTTLE UTILIZATION

Advisory Committee Meeting

The Defense Science Board Task Force on Department of Defense Space Shuttle Utilization will meet in closed session on 16 January 1976 at the Space and Missile System Organization, Los Angeles Air Force Station, CA 90009.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will examine the impact of the Space Shuttle on certain classified space programs.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: December 23, 1975.

MAURICE W. ROCHE,
Correspondence and Directives, OASD (Comptroller).

[FR Doc.75-35001 Filed 12-29-75;8:45 am]

Office of the Secretary of Defense

DEFENSE SCIENCE BOARD TASK FORCE ON NET TECHNICAL ASSESSMENT

Advisory Committee Meeting

The Defense Science Board Task Force on "Net Technical Assessment" will meet in closed session on 28-29 January 1976 at the Central Intelligence Agency, Langley, Virginia.

The overall mission of this Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on US/USSR overall research and engineering technology programs and to provide guidance for US technology exploitation in these areas to the Department of Defense.

The Task Force will examine in detail the important problem of determining critical intelligence technical requirements of the Department of Defense, the ways in which answers to these requirements would influence future US R&D/operational actions, any time urgency associated with the requirements and collection methods for satisfying these requirements.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

Dated: December 23, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.75-35002 Filed 12-29-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. F-21416]

ALASKA

State of Alaska Department of Public Works Application for Airport Lease

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214) the State of Alaska, Department of Public Works, Division of Aviation, has applied for an airport lease for the following land:

T. 4 N., R. 9 W., Fairbanks Meridian, Alaska

Sections 22, 27, and 28: Protracted.

Commencing at corner No. 3 of U.S. Survey No. 4469, Alaska, proceed N. 53°45'00" W. along survey line 1-2 of U.S. Survey No. 4455D, Alaska, a distance of 955.30 feet to a point, being monumented with an ADA ⅝ inch aluminum capped rebar, proceed S. 42°06'10" W. a distance of 1,134.33 feet to the TRUE POINT OF BEGINNING, monumented with an ADA 2 inch brass capped galvanized pipe, identified as Station 80+00 of the New Minto Airport runway centerline; thence S. 47°53'50" E. a distance of 750.00 feet to a point; thence S. 42°06'10" W. a distance of 4,368.29 feet more or less, to a point of intersection with the northeasterly right-of-way boundary line of the proposed New Minto Road according to BLM Right-of-Way F-19404.

Thence around a curve to the right, with a center angle of 118°36'28", a tangent of 2,244.36 feet, a radius of 1,332.40 feet and a deflection angle of 04°00'00"; an arc distance of 1,268.30 feet to a point; thence continuing N. 26°43'44" W. along the northeasterly right-of-way boundary line of the said proposed New Minto Road a distance of 306.65 feet to a point; thence N. 42°06'10" E. a distance of 4,368.29 feet, more or less, to a point; thence S. 47°53'50" E. a distance of 750.00 feet to the TRUE POINT OF BEGINNING.

This parcel having an area of 155.52 acres, more or less.

(The parcel described above is designated as Tract I on the State of Alaska, Department of Public Works, Division of Aviation New Minto Airport Property Plan, dated June 13, 1974.)

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to District Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

HAROLD E. WALDO,
Chief, Division of Land Office.

[FR Doc.75-34809 Filed 12-29-75;8:45 am]

NEVADA

Change of Office Mailing Address

DECEMBER 17, 1975.

Notice is hereby given that the mailing address only of the Winnemucca District Office of the Bureau of Land Management is changed effective immediately. New mailing address only will be U.S. Department of the Interior, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445. Office location and phone number remain the same.

ROGER J. MCCORMACK,
Associate State Director, Nevada.

[FR Doc. 75-34807 Filed 12-29-75;8:45 am]

NEVADA

Change of Office Mailing Address

DECEMBER 17, 1975.

Notice is hereby given that the mailing address of the Ely District Office of the Bureau of Land Management is changed effectively immediately. New office mailing address is U.S. Department of the Interior, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301. No change in the physical location of this office is made.

ROGER J. MCCORMACK,
Association State Director, Nevada.

[FR Doc.75-34808 Filed 12-29-75;8:45 am]

[NM 27210, 27211 and 27212]

NEW MEXICO

Applications

DECEMBER 18, 1975.

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 an evaporation pond site and

two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN
NEW MEXICO

T. 27 N., R. 8 W.,
Sec. 22, NE¼NW¼.
T. 27 N., R. 10 W.,
Sec. 8, E½SE¼NW¼NE¼.
T. 31 N., R. 10 W.,
Sec. 21, lots 12 and 13.

The pond site will occupy 5.0 acres and the pipelines will convey natural gas across .063 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications 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, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.75-34802 Filed 12-29-75;8:45 am]

[NM 27138]

NEW MEXICO

Notice of Application

DECEMBER 18, 1975.

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 two 4½ inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 27 E.,
Sec. 16, W½NE¼ and SE¼NE¼.

These pipelines will convey natural gas across .524 of a mile of national resource land in Eddy 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, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-34803 Filed 12-29-75;8:45 am]

[NM 26959]

NEW MEXICO

Notice of Application

DECEMBER 18, 1975.

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), Southern Union Gathering Company has applied for five 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 4, SE¼NE¼ and N½SE¼.
T 30 N., R. 9 W.,
Sec. 3, SE¼SE¼;
Sec. 6, SW¼NE¼, W½SE¼ and SE¼SE¼;
Sec. 13, NW¼SE¼;
Sec . 22, N½NW¼, SW¼NW¼ and NW¼SW¼.

These pipelines will convey natural gas across 1.680 miles of national resource lands in San Juan 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, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-34804 Filed 12-29-75;8:45 am]

[Wyoming 53437]

WYOMING

Notice of Application

DECEMBER 18, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Mountain Fuel Supply Company has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 114 W.,
Sec. 32;
Sec. 33;
Sec. 34.

The pipeline will convey natural gas from the Fogarty Creek well in sec. 32 to the Dry Piney unit well in sec. 34 to tie into an existing pipeline, all in T. 28 N., R. 114 W., Sublette County, Wyoming.

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 send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-34805 Filed 12-29-75;8:45 am]

[Wyoming 53431]

WYOMING

Notice of Application

DECEMBER 18, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 94 W.,
Sec. 6;
Sec. 18.
T. 18 N., R. 94 W.,
Sec. 6;
Sec. 18;
Sec. 30;
Sec. 32.

The pipeline will convey nautral gas from three wells in sec. 18, T. 17 N., R. 94 W., and secs. 6 and 32, T. 18 N., R. 94 W., to a proposed pipeline in sec. 6, T. 18 N., R. 94 W., to connect to gathering facilities in Sweetwater County, Wyoming.

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 send their name and address to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, WY 82301.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-34806 Filed 12-29-75;8:45 am]

SALT LAKE DISTRICT MULTIPLE USE ADVISORY BOARD, UTAH

Meeting

Notice is hereby given in accordance with P.L. 92-463 that a meeting of the Salt Lake District Multiple Use Advisory Board will be held January 22 and 23, 1976, commencing at 9:00 a.m. in the Conference Room of the District Office at 2370 South 2300 West in Salt Lake City, Utah. The subject Advisory Board was established to advise the District Manager on matters pertaining to multiple use management in the Salt Lake District.

The first day of the two day meeting will be devoted to introductory and orientation items including a review of the Charter, organizing the Board, status of District planning efforts, and a review of items "in progress" prior to formation of the Board. Topics will include the District oil and gas leasing program, wild horse management, District programs relating to the NRDC lawsuit, administration and management of the Bonneville Salt Flats, and management of the Deep Creek Mountains.

The second day will include consideration of current decision making, including military uses of NRL, various matters pertaining to Utah Lake, Onaqui-Oquirrh Planning Unit, Park City area land classifications, predator control plans, Woodruff area grazing administration, private exchange proposals, homesteading and desert land entries, forest product disposition, fire management, recreation area planning, and utility corridors.

The meeting is open to the public. Interested persons can make oral presenta-

tions to the Board or file written statements; however, requests for oral presentations before this Board should be made to the official listed below at least two days prior to the meeting. The Chairman or Authorized Federal Official may limit public attendance to the extent that available facilities and time require limitation.

Further information concerning this meeting may be obtained from Gerald E. Hillier, District Manager, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119, telephone number (801) 524-5348. Minutes of the meeting will be available for public inspection and copy two weeks after the meeting at the Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah.

Dated: December 19, 1975.

GERALD E. HILLIER,
District Manager.

[FR Doc.75-34810 Filed 12-29-75;8:45 am]

Geological Survey

BECKWOURTH PEAK, CALIFORNIA

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area:

(5) CALIFORNIA—BECKWOURTH PEAK KNOWN GEOTHERMAL RESOURCES AREA—MT. DIABLO MERIDIAN, CALIFORNIA

T. 22 N., R. 14 E.,
Secs. 3, 4, 9—All
T. 23 N., R. 14 E.
Sec. 34—All

The area described aggregates 2,558 acres, more or less.

Dated: July 2, 1975.

WILLARD C. GERE,
Conservation Manager
Western Region.

[FR Doc.75-35005 Filed 12-29-75;8:45 am]

KLAMATH FALLS, OREGON

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as an addition to the Klamath Falls Known Geothermal Resources Area, effective February 1, 1974:

(37) OREGON—KLAMATH FALLS KNOWN GEOTHERMAL RESOURCES AREA—WILLAMETTE MERIDIAN, OREGON

T. 38 S., R. 9 E.,
Secs. 3, 4, 5, 8, 9, 10, and 14
T. 40 S., R. 9 E.,
Secs. 3, 10, 15, 16, 17, 20 through 28, 34, 35, and 36
T. 41 S., R. 9 E.,
Secs. 1 through 4, 9 through 12, and 15
T. 39 S., R. 10 E.,
Secs. 4, 5, 6, 14, 15, 22 through 27, 32, 33, and 34
T. 40 S., R. 10 E.,
Secs. 4, 5, and 30
T. 41 S., R. 10 E.,
Secs. 6 and 7

The area described aggregates 33,000 acres, more or less.

Dated: November 25, 1975.

WILLARD C. GERE,
Conservation Manager
Western Region.

[FR Doc.75-35006 Filed 12-29-75;8:45 am]

OUTER CONTINENTAL SHELF PROPOSED OCS ORDERS

Extension of Time for Comments

The Geological Survey hereby extends the time to submit written comments and suggestions concerning proposed revision of two Gulf of Mexico OCS Orders to February 15, 1975. The following OCS Orders were published in Volume 40, FEDERAL REGISTER No. 238, on December 10, 1975:

OCS Order No. 7, Pollution and Waste Disposal.
OCS Order No. 8, Platforms, Structures, and Associated Equipment.

Comments should be sent to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

W. A. RADLINSKI,
Acting Director.

[F RDoc.75-35007 Filed 12-29-75;8:45 am]

OUTER CONTINENTAL SHELF

Procedures for the Development of OCS Standards

Pursuant to Supplement No. 2, November 1974, to the Geological Survey, "Report of the Work Group on OCS Safety and Pollution Control," May 1973, the Geological Survey hereby gives notice that the following procedures have been established for the development of specific safety and pollution-prevention standards for equipment and procedures used during drilling and producing operations on oil and gas leases issued on the Outer Continental Shelf:

1. Identify needs for new or modified standards and establish priorities.

2. Publish a notice in the FEDERAL REGISTER of intent to prepare specific standards requesting input and assistance.

3. Prepare drafts of new, updated, and revised standards by one or a combination of the following methods:

A. By use of input derived from step 2 above.

B. By use of available in-house expertise.

C. By arrangement with ANSI, ASME, ASTM, API, or other organizations who prepare standards.

4. Publish draft standards in the FEDERAL REGISTER for comments.

5. Consider the comments received, publish the final standards in the FEDERAL REGISTER, and incorporate them in an appropriate OCS Order by reference.

Specific environmental hazards and problems that are characteristic of different areas of the OCS shall be taken into account when incorporating standards into OCS Orders.

W. A. RADLINSKI,
Acting Director.

[FR Doc.75-35008 Filed 12-29-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-35]

ALABAMA BY-PRODUCTS CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Alabama By-Products Corporation has filed a petition to modify the application of 30 CFR 75.902 to the following mines in Alabama:

Mine	*Location*
Maxine	Jefferson County.
Mary Lee No. 1	Walker County.
Gorgas No. 7	Do.
Mary Lee No. 2	Do.
Segco No. 1	Do.

30 CFR 75.902 provides:

On or before September 30, 1970, low and medium-voltage resistance grounded systems shall include a fail-safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground check continuity conducted shall be broken first and the ground conductor shall be broken last when the coupler is being uncoupled.

In support of its position, Petitioner states: (1) Petitioner is actively engaged in the mining of bituminous coal at all of the above-captioned mines except Mary Lee No. 2 Mine which is in the process of being opened and will be in operation very soon. All of the above-named mines are underground mines. Mining is accomplished by the use of continuous miners as well as by the use of conventional equipment (cutting machines, loading machines, shuttle cars, rock and coal drills, etc.).

(2) Petitioner has tried 10 of these fail safe ground check monitors circuits which vary from small relays to complicated electronic devices and it has yet to find one which will satisfy the requirements of the Act or the Federal Regulations or withstand the high (week-end) and low (operating conditions) voltages which we have in the coal industry.

(3) The ground check monitor circuit referred to in 30 CFR 75.902 must cause the circuit breaker to open when either the ground or pilot check wire is broken. The main objective is to be assured that a continuous grounding circuit be maintained. Petitioner sincerely believes it has an alternate method which will provide at least the same degree of safety and will maintain a continuous grounding circuit.

(4) Alternate Method: Petitioner requests that in lieu of the mandatory requirements of the Act and regulations the following installations and procedures be followed:

(a) A bare (non-insulated) copper conductor equal in size to the power conductor be installed as a safety ground conductor. The ground conductor suggested by Petitioner will satisfy the requirements under 30 CFR 75.514.

(b) This bare conductor shall be inspected in accordance with 30 CFR 75.512 and shall at all times meet the requirement under 30 CFR 75.512.

(c) It is understood that this alternate method shall only be approved on the condition that the safety ground (bare, non-insulated conductor) will be adequately protected from exposure to physical damage and also that the safety ground conductor shall be visible for the entire length of the conductor.

(5) Petitioner's safety records disclose no history of accidents resulting from the lack of a safety ground to stationary equipment. As stated above, some form of safety ground is absolutely essential for the safety of miners. However, Petitioner believes the alternate method of using a non-insulated visible safety ground conductor will at all times guarantee no less than the same measure of protection as that guaranteed under 30 CFR 75.902. Also 30 CFR 75.901 will be complied with because a ground conductor one-half the size of the power conductor will be utilized in addition to the proposed bare grounding conductor. To support its statement of the same degree of safety, Petitioner points out that the visible examination of the safety ground conductor for its entire length assures that there are no physical defects in the conductor. Thus we are assured that the proper size (ampacity) of the ground conductor is maintained. In cases where the pilot monitoring device is used—unless the safety ground wire is visible—one has no such assurance. Due to the unreliability of the ground pilot monitoring circuits, more trouble shooting is required. In electrical trouble shooting there is a certain exposure to electrical shock hazards. This alternate method would reduce this exposure considerably.

(6) In the proposed alternate method, all connections are external and visible. Therefore, Petitioner has full assurance of positive connection under its alternate method. Under the requirements of the Act and regulations, internal—not always visible—connections are allowed. Petitioner feels this further demonstrates that its alternate method provides at least the same degree, if not a greater degree, of safety.

(7) It must be remembered that Petitioner requests the use of this alternate method only in areas where the conductor is visible, can be inspected, and is not subjected to physical damage.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35009 Filed 12-29-75;8:45 am]

[Docket No. M 75-32]

BETTY B. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Betty B. Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its Nos. 1, 2 and 4 Mines, Clintwood, Virginia.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

Petitioner's alternate coupling method consists of a cut lever mounted at rear of the mine car which permits a pin to drop into the coupling pin and automatically lock in. Where necessary a long-handled hook can be used to align the link with the coupling pin without requiring the brakeman to go between the cars.

This method of coupling provides a greater amount of safety for a number of reasons; it prevents, for example, the accidental uncoupling of cars which occurs when track levels are uneven.

Petitioner believes that its alternate method will at all times guarantee no less than the same measure of protection afforded the miners by the mandatory standard.

The petition is supported by schematic diagrams detailing the alternate method.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that time.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35010 Filed 12-29-75;8:45 am]

[Docket No. M 76-39]

JEWELL SMOKELESS COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Jewell Smokeless Coal Corp. has filed a petition to modify the application of 30 CFR 77.1607(bb) to its Cornet Plant No. 2, Vansant, Virginia.

30 CFR 77.1607(bb) provides:

When the entire length of a conveyor is visible from the starting switch, the operator shall visually check to make certain that all persons are in the clear before starting the conveyor. When the entire length of the conveyor is not visible from the starting switch, a positive audible or visible warning system shall be installed and operated to warn persons that the conveyor will be started.

In support of its petition, Petitioner states: (I) Petitioner incorporates the use of many belts and conveyors within its coal preparation plant to transfer raw coal and refuse in their various states of preparation from one location to another as is necessitated by a predetermined material flow pattern. These belts and conveyors are covered by the mandatory standard as set forth in 30 CFR 77.1607(bb).

(II) Petitioner's preparation plant is provided with a central control station fed from two separate motor control centers. The control station is located in a totally enclosed and insulated room to provide a controlled atmosphere for greater efficiency and durability of its electrical components. Therefore, the operator cannot visually check any conveyor before starting it.

(III) Petitioner's preparation plant is provided with an audible warning system to warn personnel when any piece of electrical equipment is to be started. There are approximately 150 motors throughout the plant. Of this number only 25 motors are used to provide drive-power to conveyors. The aforementioned warning system is used in conjunction with all the motors, including the conveyor drive motors in the following ways:

(1) At the start of each shift, the warning siren is sounded to warn personnel that equipment will be started.

(a) Two pushbuttons have been installed on the control console, one on the extreme right and near the intercom station and one in the center, which are manually engaged to energize the sirens.

(b) The following start-up instructions are boldly displayed on the console at each pushbutton and are followed by all operators:

SOUND SIREN THREE BLASTS, PAUSE 20 SECONDS, START EQUIPMENT

(2) During the production shift (after all major motors have been started), when it is necessary to start any auxiliary motor or to shut down and restart a motor, the above procedure is precisely followed.

(IV) The warning system described has been in operation since the plant was rewired in 1971. During this time there have been no difficulties encountered with its effectiveness. Also, during this period there have been numerous inspections made by both Federal and State inspectors without any notices being issued concerning the permissibility of the warning system.

(V) To effectively use an automatic timing device the use of "jog-stop" buttons would have to be provided to accommodate the repair and maintenance worker. Frequently, the repairman is required to "jog" a motor to check for proper rotation, to change position of a belt conveyor, or various other reasons. To do this without a "jog-stop" button would require waiting for the automatic timing device to complete its cycle, thus starting the motor. This time lag would be a nuisance and danger to the repairman.

(VI) Alternate Method (1) Petitioner feels, considering its current warning system, safety hazards would actually be increased by application of 30 CFR 77.1607(bb) as an "automatic" warning system.

(2) Petitioner feels that the warning system used in this plant meets the requirements of a "positive" warning device and is safer than an "automatic" system would be for the following reasons:

(a) This system includes all electrical equipment and is not limited to belts and conveyors.

(b) The electrical equipment can be started from the operator's station only. (There are no "jog-stop" buttons as previously mentioned.)

(c) Repair and maintenance require motors to be "jogged" for various reasons. This is accomplished by use of an intercom system wherein the mechanic can communicate directly with the operator as to his exact needs. This method prevents a repairman in an isolated section of the plant from "jog-starting" a piece of equipment without giving proper warning to other plant personnel.

(d) When repair is necessary, the electricians use the following procedures:

(1) The equipment to be repaired is identified.

(2) The circuit breaker feeding that piece of equipment is opened.

(3) With locks provided in each motor control room the circuit breaker is locked out and the one key provided is kept by the repairman who locked out the breaker.

(4) An appropriate danger tag is attached to that piece of equipment.

(5) Upon completion of repairs the repairman, with the key, shall unlock the circuit breaker, remove the danger tag, reinstall the power and inform the operator that the repairs have been completed.

(6) The operator will use the aforementioned start-up procedure in restoring the repaired piece of equipment into service.

(3) The foregoing alternate method is a method which has been developed with the assistance of technical experts of Petitioner and addresses itself to not only the safety objectives sought by 30 CFR 77.1607(bb) but also to the particular hazards that would be created if application of such standard were required.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35011 Filed 12-29-75;8:45 am]

[Docket No. M 76-27]

PENN ALLEIGH COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Penn Alleigh Coal Co., Inc., has filed an amendment to its petition [1] to modify the application of 30 CFR 75.-1710-1(a) to its Allegheny No. 2 Mine located in Allegheny and Butler Counties, Pennsylvania.

30 CFR 75.1710-1(a) provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches.

In support of its amendment, petitioner states: (1) Subsequent to the filing of its original petition, Petitioner was served with a Notice to Provide Safeguards requiring the installation of canopies on all rubber-tired haulage equipment and battery tractors in Petitioner's mine.

(2) Petitioner avers that all of the reasons for diminution of safety cited by it in its original petition with respect to the use of canopies relating to face equipment apply as well to the use of canopies on rubber-tired haulage equipment and battery tractors.

(3) Petitioner further avers that in addition to the reasons cited in paragraph 4 of its original petition for modification of the aforesaid safety standard, the use of canopies on haulage equipment and battery tractors would involve the following additional hazards:

(a) The greater speeds of haulage equipment accentuate the possibility of severe damage to equipment and permanent roof supports or injury to operators in the event the canopy becomes wedged against the roof of the coal seam; and the variable roof heights make this type of impact more probable when equipment is moving more rapidly.

(b) Haulage equipment must traverse more distances than face equipment and thus must encounter more surface unevenness, making collision between canopy and roof more likely.

(4) Petitioner avers that, as in the case of canopies for face equipment, there are no manufacturers presently building canopies suitable for use on rubber-tired haulage equipment and battery tractors.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35012 Filed 12-29-75;8:45 am]

[1] The original petition was published in 40 FR 55871 on Tuesday, December 2, 1975.

[Docket No. M 76-33]

SOUTH-EAST COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), South-East Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Polly No. 4 Mine, Whitesburg, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

In support of its petition, Petitioner states: (1) Petitioner's haulage equipment consists of National Mine Service Torkars, type 48A-512-36AL, over-all height 43 inches, and 6S/C Joy shuttle cars 36 inches high. This equipment has been in service for several years, and when manufactured was not designed for the installation of canopies. Attempts by Petitioner to construct or purchase suitable canopies have not been successful.

(2) The Polly Mine is in the Elkhorn No. 3 seam ranging from 46 to 60 inches in height. Petitioner is constantly encountering irregularities in this seam resulting in severe dips in the coalbed.

(3) There have been no serious injuries to shuttle car operators due to roof falls since production started in 1957. However, due to the reduced visibility, awkward body positions, e.g., operator having to hang his head outside of canopy to operate the machinery, possible dislodgment of roof support, and entrapment of personnel in disabled equipment, installing canopies on the haulage equipment will create more of a hazard to the operator and other employees on the section than the possibility of a roof fall.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBEH,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35013 Filed 12-29-75;8:45 am]

[Docket No. M 76-36]

TENN-TEX COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Tenn-Tex Coal Corporation has filed a petition to modify the application of 30 CFR 77.1605(k) to its Frances No. 1 Mine, Middlesboro, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition Petitioner states: (1) The subject haulage road is only 3 miles in length, very wide, and well-maintained. Petitioner's traffic system has worked extremely well in the avoidance of all accidents. In sum, Petitioner has an excellent safety record in its hauling operations due to careful maintenance of rolling stock, supervised traffic system and extra wide roads.

(2) Installation of berms on the side of the road would interfere with drainage, and water, resulting from snow, would collect on the road. Thus, the berms would create a hazard to rather than a protection of the drivers.

(3) Petitioner believes that the safety precautions presently taken on the haulage road will guarantee a greater measure of protection to the truck drivers than will be afforded by the installation of berms or guardrails.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before January 29, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

DECEMBER 19, 1975.

[FR Doc.75-35014 Filed 12-29-75;8:45 am]

[INT DES 75-65]

CORDERO MINE, CAMPBELL COUNTY, WYOMING

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement on proposed coal mining operations at Sun Oil Company's Cordero Mine, Campbell County, Wyoming. The draft statement assesses the environmental impacts of the lessee's plan for the strip mining of federally owned coal and the concurrent reclamation and revegetation of surface lands.

The proposed mining and reclamation plan assessed in this statement is on Federal coal lease Wyoming 8385, Tr. 46 and 47 N., R. 71 W., 6th Prin. Mer. and was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of that statement were held as follows: June 24-25, 1974 at Cheyenne, Wyoming; June 26, 1974 at Casper, Wyoming; and June 27-28, 1974 at Gillette, Wyoming. The draft environmental statement is available for public review in the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado 80202; the U.S. Geological Survey Library, Building 25, Denver Federal Center, Denver, Colorado 80225; the U.S. Geological Survey Library, Room 4A100, USGS National Center, Reston, Virginia, 22092; the U.S. Department of Interior Library, Interior Building, Washington, D.C. 20240; the Converse County Library, 300 Walnut Street, Douglas, Wyoming 82633; the George Amos Memorial Library, 412 South Gillette Avenue, Gillette, Wyoming 82716; the Library of Natrona County, 307 East Second, Casper, Wyoming 82601; and the State Library, State of Wyoming, Supreme Court Building, Cheyenne, Wyoming 82002.

A limited number of copies are available to the public upon request from the following United States Geological Survey Offices:

Public Inquiries Office, 1012 Federal Building, 1961 Stout Street, Denver, Colorado 80202.

Public Inquiries Office, 8102 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Environmental Impact Analysis Program, Preparation Unit, National Center, Mailstop 760, Reston, Virginia 22092.

The Department will accept written comments on the draft statement for a period of 45 days subsequent to the date of this notice, and will consider any comments received in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, United States Geological Survey, National Center (Mailstop 108) Reston, Virginia 22092.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of Interior.

DECEMBER 23, 1975.

[FR Doc.75-35038 Filed 12-29-75;8:45 am]

Office of the Assistant Secretary, Land and Water Resources

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on January 21 and 22, 1976, at the Denver Downtown Holiday Inn, 15th Street and Glenarm Place, in Denver, Colorado. The meeting will begin at 1:00 p.m. on Wednesday, January 21 in the Molly Gibson and Gold Links rooms and conclude at 5:00 p.m. on Thursday, January 22.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases

issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is to review an outline and draft material for the Detailed Development Plan for lease tract C-a, an outline for a Social and Economic Growth Management Impact Statement for tract C-a, review fourth quarterly summary data reports for lease tracts C-a, C-b, and U-a and U-b (combined) and to receive reports from Interior officials.

The meeting is open to the public. It is expected that space will permit at least 150 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. William L. Rogers, Chairman, Office of the Secretary, Department of the Interior, Room 638, Building 67, Denver Federal Center, Denver, Colorado 80225.

Further information concerning this meeting may be obtained from Mr. Henry O. Ash, Office of the Oil Shale Environmental Advisory Panel, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, Telephone No. (303) 234-3275. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Dated: December 17, 1975.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.75-34951 Filed 12-29-75;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—SOUTH ATLANTIC REGION

Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The South Atlantic Regional Board will meet during the period 10:00 a.m. to 3:00 p.m., January 14, 1976, in the Marine Resources Center, South Carolina Wildlife and Marine Resources Department, 217 Fort Johnson Road, Charleston, South Carolina.

The Board plans to discuss the agenda items for the next national meeting which will be held in February. In addition, States will present and discuss local concerns.

The meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by January 7 to the South Atlantic Board Chairman:

Dr. James I. Jones, Special Projects Officer, Division of State Planning, 660 Apalachele Parkway, Tallahassee, Florida 32304. 904/488-1115.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets, N.W., Washington, D.C.

ROYSTON C. HUGHES,
Assistant Secretary, Program Development and Budget.

DECEMBER 22, 1975.

[FR Doc.75-34963 Filed 12-29-75;8:45 am]

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular A-63, which was published in the FEDERAL REGISTER on April 5, 1974 (39 FR 12389). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Public Law 92-463), I have determined that renewal of the advisory committees listed below is necessary and in the public interest.

Oil Shale Environmental Advisory Panel
Outer Continental Shelf Environmental Studies Advisory Committee (formerly the Outer Continental Shelf Research Management Advisory Board)
Regional Advisory Committee, Mid-Atlantic Region, National Park Service
Regional Advisory Committee, North Atlantic Region, National Park Service
Regional Advisory Committee, Rocky Mountain Region, National Park Service

The Office of Management and Budget has concurred in the renewal of these committees.

Further information regarding these renewals may be obtained from the Committee Management Officer, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: December 19, 1975.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.75-35023 Filed 12-29-75;8:45 am]

WATCHES AND WATCH MOVEMENTS

Rules for Allocation of Quotas for Calendar Year 1976 Among Producers Located in the Virgin Islands, Guam, and American Samoa

CROSS REFERENCE: For a document issued jointly by the Department of the Interior, Office of the Secretary, and the Department of Commerce, Office of the Secretary, on the subject of watches and watch movements, see FR Doc. 75-35020 appearing in the notices section of this issue under the Department of Commerce, Office of the Secretary.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

REGULATORY INVESTIGATIONS OF DRUG, PESTICIDE, AND INDUSTRIAL CHEMICAL RESIDUES IN ANIMAL FEEDS AND IN MEAT AND POULTRY

Memorandum of Understanding With the Food and Drug Administration and Various State Agencies

CROSS REFERENCE: For a document giving notice of a Memorandum of Understanding between the Animal and Plant Health Inspection Service, the Food and Drug Administration, and various State agencies regarding a coordinated program for dealing with illegal residues in animal feeds and in meat and poultry, see FR Dec. 75-34983, Department of Health, Education, and Welfare, Food and Drug Administration, *infra*.

Farmers Home Administration

[FmHA Instruction 449.2]

BUSINESS AND INDUSTRIAL LOANS

Insured Loan Interest Rates

Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1980.423(b) is as follows:

a. Insured loans to private entrepreneurs will be at the rate of ten and one-quarter percent (10.25%). This rate will remain in effect until a change is published in the FEDERAL REGISTER.

Effective Date. This notice shall be effective on December 30, 1975.

Dated: December 19, 1975.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75-34883 Filed 12-29-75;8:45 am]

[Notice of Designation Number A278]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of drought May 1 through August 31, 1975:

Clinton; Essex; Franklin; Jefferson; St. Lawrence.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 11, 1976, for physical losses and September 13, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 18th day of December 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-34972 Filed 12-29-75;8:45 am]

[Notice of Designation Number A277]

SOUTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Davison County, South Dakota, as a result of drought June 1 to September 4, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard F. Kneip that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 10, 1976, for physical losses and September 13, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 18th day of December, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-34973 Filed 12-29-75;8:45 am]

[Notice of Designation Number A276]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Caldwell County, Texas, as a result of excessive rainfall beginning April 10 through July 30, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than February 10, 1976, for physical losses and February 13, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 18th day of December, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-34974 Filed 12-29-75;8:45 am]

Forest Service

BLACKTAIL LAND USE PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for management of the Blacktail Unit. The Forest Service Report Number is USDA-FS-R2-DES (Adm) FY-76-06.

The environmental statement concerns a proposed land use plan for the Blacktail Unit on the Routt National Forest in Routt and Grand Counties, Colorado. The management proposal emphasizes both non-consumptive values and the production of tangible products on 23,475 acres. The plan will permit a mixture of needed land uses and activities that are environmentally acceptable and compatible with the Area's economic and social potential. The initial activities would consist of constructing four miles of road and harvesting five million board feet of timber. Specific guidance is given to retaining scenic qualities and maintaining a dispersed recreation atmosphere. The proposed Plan does not retain any of the 15,655 acres of Inventoried Roadless Areas DL & DM (Rock Creek and Blacktail) in a designated roadless status.

This draft environmental statement was transmitted to CEQ on December 19, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA Forest Service, 137-10th Street, Steamboat Springs, Colorado 80477.
USDA Forest Service, 11177 West Eight Avenue, Lakewood, Colorado 80225.
USDA Forest Service, 300 Roselawn, Yampa, Colorado 80483.

A limited number of single copies are available upon request to: J. MERLE PRINCE, Forest Supervisor, Routt National Forest, P.O. Box 1198, Steamboat Springs, Colorado 80477.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact included for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to J. Merle Prince, Forest Supervisor, Routt National Forest, P.O. Box 1198, Steamboat Springs, Colorado 80477. Comments must be received by February 19, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: December 19, 1975.

J. MERLE PRINCE,
Forest Supervisor.

[FR Doc.75-34796 Filed 12-29-75;8:45 am]

BOGUS BASIN PROPOSED SKI AREA EXPANSION

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Bogus Basin Propoced Ski Area Expansion, Boise National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-76-7.

This environmental statement reviews the expansion proposal for the Bogus Basin Ski Area. The expansion would take place on the Boise National Forest in Boise County, Idaho. The expansion area development would be supported by base facilities located on private land. The proposal calls for the addition of 1,370 acres to this use upon which two double chairlifts, a warming lodge, and several ski runs will be developed. The expansion will bring the Bogus Basin ski slope capacity from 2,267 to 3,793 skiers at one time.

This draft environmental statement was transmitted to CEQ on December 19, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
Regional Planning Office, USDA, Forest Service Federal Bulding, Room 4403, 324—25th Street, Ogden, Utah 84401.
Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

A limited number of single copies are available upon request to Forest Supervisor Edward C. Maw, Boise, National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706. Comments must be received by February 17, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: December 19, 1975.

P. M. REES,
Director,
Regional Planning and Budget.

[FR Doc.75-34795 Filed 12-29-75;8:45 am]

RYAN PARK WINTER SPORTS SITE MEDICINE BOW NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Ryan Park Winter Sports Site. The Forest Service Report Number is USDA-FS-R2-DES (Adm) FY-76-05.

This environmental statement concerns a proposal to allocate 280 acres of National Forest land adjacent to Ryan Park, Wyoming for a winter sports site within the Travel Influence Zone pursuant to the Forest Multiple-Use Plan approved in January, 1972. The current allocation of 67 acres for a winter sports site at the nearby Ryan Park Ski Village would be terminated.

This draft environmental statement was transmitted to CEQ on December 19, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, 11177 West Eight Avenue, Lakewood, Colorado 80225.
USDA, Forest Service, 605 Skyline Drive, Laramie, Wyoming 82070.

A limited number of single copies are available upon request to: Alan Duhnkrack, Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact included for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Alan Duhnkrack, Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070. Comments must be received by February 18, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: December 19, 1975.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

[FR Doc.75-34797 Filed 12-29-75;8:45 am]

SNAKE RIVER BASIN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Snake River Basin. The Forest Service Report Number is USDA-FS-R2-DES(Adm) FY-76-04.

This environmental statement concerns a proposal to update the existing Multiple Use Management Guide and intensify management actions for lands in the Snake River Basin, Dillon Ranger District, Arapaho National Forest, in the County of Summit.

This draft environmental statement was transmitted to CEQ on December 19, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, 11177 West Eight Avenue, Lakewood, Colorado 80225.
USDA, Forest Service, P.O. Box 948, Glenwood Springs, Colorado 81601.

A limited number of single copies are available upon request to: Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact included for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Thomas C. Evans, Forest Supervisor, White River National Forest, P.O. Box 948, Glenwood Springs, Colorado 81601. Comments must be received by February 18, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: December 19, 1975.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

[FR Doc.75-34798 Filed 12-29-75;8:45 am]

BOISE NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Boise National Forest Grazing Advisory Board will meet at 1:30 p.m., February 10, 1976, at the Boise National Forest Supervisor's Office, 1075 Park Boulevard, Boise, Idaho.

The purpose of the meeting is to explain the purpose and function of the Advisory Board, review of and suggestions for revising the constitution and by-laws, to comment on the revision of the 2200 Range Management section of the Forest Service Manual, and to explain briefly Forest Service appeal procedures.

The meeting will be open to the public. Persons who wish to attend should notify Mr. Tom Nicholson, President, Boise National Forest Grazing Advisory Board, 10322 Estate Drive, Boise, Idaho 83705, Telephone: Area Code 208 375-5255. Written statements may be filed with the committee before or after the meeting.

Dated: December 15, 1975.

EDWARD C. MAW,
Forest Supervisor.

[FR Doc.75-34880 Filed 12-29-75;8:45 am]

NATIONAL ADVISORY COMMITTEE ON SAFETY IN AGRICULTURE

Public Meeting

The National Advisory Committee on Safety in Agriculture will be held January 27-28, in Washington, D.C.

The meetings which will begin each day at 9:00 A.M., will be held in room 218-A at the U.S. Department of Agriculture's Administration Building, 12th and Independence Avenue, SW., Washington, D.C. 20250, and will be open to the public.

The meeting is structured to provide members of the committee ample time for discussion. Key issues to be included are: status of recommendations made by the committee at its last meeting held February 26-27, 1975; statistics on farm accidents; research and education programs related to farm safety; review of impacts of existing health and safety regulations on the agricultural sector; and possible impacts of any proposed health and safety regulations affecting farmers, farm workers and agricultural communities.

Written comments concerning this meeting should be addressed to Dr. R. B. Wilson, Assistant to the Secretary for Intergovernmental Affairs, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: December 22, 1975.

R. B. WILSON,
Executive Secretary.

[FR Doc.75-34975 Filed 12-29-75;8:45 am]

CHAMBERLAIN BRANCH WATERSHED PROJECT, KENTUCKY

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 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 No. 1 of the Chamberlain Branch Watershed Project, Estill County, Kentucky.

The environmental assessment of this federal action indicates that the structure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the structure. As a result of these findings, Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, USDA, 333 Waller Avenue, Lexington, Kentucky 40504, has determined that the preparation and review of an environmental impact statement is not needed for this structure.

The planned works of improvement as described in the negative declaration consist of one single-purpose floodwater retarding structure constructed across a natural stream with intermittent flow.

Chamberlain Branch Watershed, Kentucky, Notice of Availability of Negative Declaration.

The environmental assessment file is available for inspection during regular working hours and a limited supply of the negative declaration is available to fill single copy requests at the following location:

Soil Conservation Service, USDA, 333 Waller Avenue, Lexington, Kentucky 40504.

Request for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: December 18, 1975.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-34987 Filed 12-29-75;8:45 am]

CRABTREE CREEK WATERSHED PROJECT, NORTH CAROLINA

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Crabtree Creek Watershed Project, Wake and Durham Counties, North Carolina, USDA – SCS – EIS – WS – (ADM) – 76 – 01–(D)–NC.

The environmental impact statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by five floodwater retarding structures.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, P.O. Box 27307, Raleigh, North Carolina 27611.

Copies of the draft environmental impact 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.

Crabtree Creek Watershed Project, North Carolina, Notice of Availability of Draft Environmental Impact Statement.

Comments concerning the proposed action or requests for additional information should be addressed to Jesse L. Hicks, State Conservationist, Soil Conservation Service, P.O. Box 27307, Raleigh, North Carolina 27611.

Comments must be received on or before February 5, 1976, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: December 18, 1975.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-34989 Filed 12-29-75;8:45 am]

EAST BRANCH STURGEON RIVER WATERSHED, MICHIGAN

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 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 East Branch Sturgeon River Watershed Project, Dickinson County, Michigan.

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. Arthur H. Cratty, State Conservationist, Soil Conservation Service, USDA, 1405 South Harrison Road, East Lansing, Michigan 48823, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, recreation, and irrigation.

The remaining works of improvement to be constructed, as described in the negative declaration, is a multiple-purpose structure for storage of water for irrigation and recreation.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 1405 South Harrison Road, East Lansing, Michigan 48823.

Requests for copies of the negative declaration should be sent to this address.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: December 18, 1975.

JAMES MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-34988 Filed 12-29-75;8:45 am]

NESHAMINY CREEK WATERSHED PROJECT, PENNSYLVANIA

Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Neshaminy Creek Watershed Project, Bucks and Montgomery Counties, Pennsylvania, USDA–SCS–EIS–WS–(ADM)–76–1–(D)–PA.

The environmental impact statement concerns a partially completed project for watershed protection, flood prevention and recreation that was authorized in 1966. The planned works of improvement included conservation land treatment, eight floodwater retarding structures, two multiple purpose structures (municipal water supply, recreation and flood prevention) and two sets of recreation facilities. Part of the conservation

land treatment, three floodwater retarding structures and two multiple purpose structures have been installed. The environmental impact statement describes the five floodwater retarding structures, recreation facilities which are located at the multiple purpose structures, and the balance of the conservation land treatment which will be installed. These elements when combined with other local and watershed sponsors' program provide a comprehensive approach to flood plain management for the watershed. The recreational development will provide 330,000 visitor-days of recreation annually.

Neshaminy Creek Watershed Project, Pennsylvania, Notice of Availability of Draft Environmental Impact Statement.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, Third and Walnut Streets, Box 985 Federal Square Station, Harrisburg, Pennsylvania 17108.

Copies of the draft environmental impact 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 Benny Martin, State Conservationist, Soil Conservation Service, Box 985 Federal Square Station, Harrisburg, Pennsylvania 17108.

Comments must be received on or before February 18, 1976, in order to be considered in the preparation of the final environmental impact statement.

Dated: December 18, 1975.

(Catalog of Federal Domestic Assistance Program No. 10,904, National Archives Reference Services.)

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

[FR Doc.75-34990 Filed 12-29-75;8:45 am]

LOWER BAYOU WATERSHED, OKLAHOMA

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 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 an independent portion of the Lower Bayou Watershed Project, Carter and Love Counties, Oklahoma.

The environmental assessment of the federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement covered by this negative declaration include conservation land treatment, 5 floodwater retarding structures, 6.33 miles of channel work, and appurtenances on a natural channel with intermittent flow, all of which are located on the Simon Creek tributary to Walnut Bayou.

The environmental assessment file is available for inspection during regular working hours and the negative declaration is available for single copy requests at the following location:

Soil Conservation Service, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Service).

Dated: December 18, 1975.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

[FR Doc.75-34986 Filed 12-29-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[46-2]

BUREAU OF EAST-WEST TRADE

Organization and Function Order

This order effective November 17, 1975 supersedes the material appearing at 38 FR 9329 of April 13, 1973; 38 FR 19059 of July 17, 1973; 39 FR 26924 of July 24, 1974; and 39 FR 41756 of December 2, 1974.

SECTION 1. PURPOSE

This order prescribes the organization and assignment of functions within the Bureau of East-West Trade.

SECTION 2. ORGANIZATION AND STRUCTURE

The organization structure and line of authority of the Bureau of East-West Trade (the "Bureau") shall be as depicted in the attached organization chart. A copy of the chart is on file with the original of this document in the Office of the Federal Register.

SECTION 3. DELEGATIONS OF AUTHORITY

.01 The Director, Office of Export Administration, is delegated authority to exercise and perform all powers and functions provided by the Export Administration Act of 1969 (50 U.S.C. app. 2401 et seq.), as amended and extended by the Equal Export Opportunity Act (Public Law 92-412, 86 Stat. 644), and the Export Administration Amendments of 1974 (Public Law 93-500, 88 Stat. 1552), the administration of which was delegated to the Secretary of Commerce by Executive Order 11533 of June 4, 1970, as continued in effect by Executive Orders 11683 of August 29, 1972, 11798 of August 14, 1974 and 11818 of November 5, 1974, except that the determinations required by Section 7(c) with respect to the publication or disclosure of confidential information obtained under the provisions of the Act, and the submission of reports to the President and to the Congress required by Section 10 of the Act, are reserved to the Secretary of Commerce. This delegation specifically includes the authority:

a. To issue rules and regulations to carry out the purpose of the aforesaid Act, including rules and regulations applicable to the financing, transporting, and other servicing of exports and the participations therein by any person;

b. To sign and issue subpoenas requiring any person to appear and testify or to appear and produce books, records, and other writings or both, to any designated place, in connection with any investigation or proceeding necessary or appropriate to the enforcement of said export administration authority;

c. To require reports and the keeping of records by any person to the extent necessary or appropriate to the enforcement of said export administration authority, and to require any person to permit the inspection of books, records, and other writings or property; and

d. To take any other action necessary or appropriate to achieve effective enforcement of the Act in connection with actual or potential export control violations, including the issuance of denial and probation orders.

.02 The Director, Office of Export Administration, is authorized to redelegate any power or function conferred by this delegation and may authorize successive redelegations, except as otherwise provided and limited in paragraphs .03, .04, and .05 of this section with respect to inspections, subpoenas, oaths, and affirmations, and other enforcement authority.

.03 The Director, Office of Export Administration is delegated authority under Executive Order 11322 of January 5, 1967 and Executive Order 11419 of July 29, 1968 as relates to the exportation from the United States of commodities and products to or on behalf of Southern Rhodesia.

.04 In addition to the Director, at all times the Deputy Director, Office of Export Administration, the Director of Compliance Division, and the Agent-in-Charge, New York Field Office, Compliance Division, are each authorized to require any person to permit the investigation of books, records, and other writings, premises, or property, and to sign and issue subpoenas requiring any person to appear and testify or appear and produce books, records and other writings, or both, to any designated place, in connection with any investigation or

proceeding necessary or appropriate to the enforcement of said export administration authority.

.05 The Hearing Commissioner is authorized, in any proceeding relating to the denial of export privileges or the imposition of civil penalties under the Export Administration Act of 1969, as amended, to administer oaths and affirmations, and to sign and issue subpoenas, requiring any person to appear and testify or to appear and produce books, records, and other writings, or both.

.06 Any special agent employed in the Compliance Division of the Office of Export Administration and any attorney in the Office of the General Counsel assigned to export control enforcement duties, who is specifically designated as a special agent of the Bureau of East-West Trade, is hereby authorized to make investigations, obtain information, inspect books, records, and other writings, premises, or property of, and take the sworn testimony of, any person, and to administer oaths and affirmations for the purpose of procuring or receiving from any person sworn statements or other sworn testimony, concerning any matter under investigations necessary or appropriate to the enforcement of the export administration authority.

.07 This supersedes delegations of authority previously made and confirmed with respect to export administration, except that all outstanding rules, regulations, orders, licenses, designations, and other forms of administrative action shall, until amended or revoked, remain in full force and effect.

SECTION 4. OFFICE OF THE DEPUTY ASSISTANT SECRETARY

.01 The *Deputy Assistant Secretary for East-West Trade*, (the Deputy Assistant Secretary) shall be responsible to the Assistant Secretary for Domestic and International Business and shall determine the objectives of the Bureau, formulate the policies and programs for achieving those objectives and direct the execution of the programs. The objectives, policies and programs of the Bureau shall relate to the U.S.S.R., People's Republic of China, Poland, Romania, Czechoslovakia, Hungary, Bulgaria, Albania and the German Democratic Republic, Cuba, Mongolia and certain other areas of the world with similar economic/political structures, and, where necessary for export administration purposes, other countries.

.02 The *Deputy Director* shall assist in the direction of the Bureau and perform the functions of the Deputy Assistant Secretary in the latter's absence.

.03 The Deputy Assistant Secretary shall supervise and direct the following organizational components:

a. Office of the Deputy Assistant Secretary.
b. Office of East-West Trade Development.
c. Office of East-West Country Affairs.
d. Office of East-West Policy and Planning.
e. Office of Export Administration.

.04 *The Office of the Deputy Assistant Secretary* shall provide the *Executive Secretary* support to the Export Administration Review Board (EARB—at the Cabinet level), the Chairman of which is the Secretary of Commerce, and to the Advisory Committee on Export Policy (ACEP—at the Assistant Secretary level), the Chairman of which is the Assistant Secretary for Domestic and International Business. The EARB, the ACEP and the Operating Committee (OC), the Chairman of which is a part of the Office of the Director of the Office of Export Administration, constitute the formal interagency committee structure which addresses policy issues associated with the administration of the Export Administration Act. The Chairman of the OC shall serve as Executive Secretary for the EARB and ACEP, and in this capacity shall report to the Deputy Assistant Secretary for East-West Trade.

.05 The Office of the Deputy Assistant Secretary shall include a *Hearing Commissioner* who shall conduct hearings and perform other duties with respect to administrative compliance proceedings involving export control violation cases, in accordance with the rules set forth in the export regulations and shall act as Appeals Advisor to the Assistant Secretary for Domestic and International Business for those appeals filed pursuant to Section 389 of the Export Administration Regulations.

SECTION 5. OFFICE OF EAST-WEST TRADE DEVELOPMENT

.01 The *Office of the Director* includes: The *Director* who shall plan and direct the execution of policies and programs of the Office. The Office shall also include the *Deputy Director* who shall assist in the direction of the Office and perform the functions of the Director in his absence. The Office of the Director shall prepare appropriate market assessments on the centrally planned economy countries to provide both general and specific guidance for the activities of the Trade Promotion and Trade Development Assistance Divisions; for use by U.S. firms in the further development of their own market surveys; and to stimulate U.S. firms' interest in new market areas for detailed study. The primary emphasis of this effort shall address East-West trade from the perspective of U.S. industry. Other offices of the Bureau shall provide appropriate input for such studies which shall be basically guided by the Director of the Office. The Office of the Director shall exercise supervision and direction over such overseas East-West Trade Development Centers and Offices as now exist in Moscow, Warsaw, and Vienna. The Director shall supervise and direct the following organizational components:

.02 *The Trade Promotion Division* shall be responsible for the formulation of promotional programs responsive to the needs of U.S. firms interested in initiating or expanding commercial relationships with the countries and areas specified in Section 4.01 above. The Division shall:

a. Plan and procure commercial trade fair exhibitions for the specified countries and areas, identify qualified U.S. firms and arrange for their participation, and undertake appropriate follow-up activities to facilitate the establishment and/or development of permanent and productive trade relationships by participants;

b. Plan and conduct, where appropriate, U.S. trade missions, seminars, exhibits and other events to promote international trade and investment and encourage and facilitate private utilization of these trade promotion techniques by U.S. business with sponsorship of the Department;

c. Establish Business Information Offices and Business Development Offices at selected international trade fairs and at other appropriate locations in these countries and areas; the plan and conduct appropriate technical seminars and symposia and other useful trade promotional techniques;

d. In conjunction with other DIBA organizational components, as appropriate, test new trade promotion techniques, such as reverse trade missions and single company-sponsored catalog and product shows, and recommend appropriate action for Bureau consideration; and

e. Maintain and disseminate market data and project information pertaining to fairs and exhibits in these countries and areas which can be used by U.S. firms to promote the international trade interests of the United States.

.03 *The Trade Development Assistance Division* shall facilitate trade between the United States and the specified countries and areas by acquiring information on how trade is actually conducted, counseling the U.S. business community on how to go about such trade, and assisting U.S. firms to pursue business transactions. Specifically the Division shall:

a. Obtain, from U.S. businessmen who have had personal experience in doing business with specified countries, detailed information on how such business is conducted, including contract terms and conditions, the roles played by foreign government trade and ministerial organizations, methods of financing, problems to be anticipated and pitfalls to be avoided in doing business;

b. Advise U.S. firms wishing to do business with the specified countries on methods used to conduct such trade, names of decision makers and channels of access to them, contract clauses required, negotiating factors likely to be used, alternative methods of financing, and other specific information;

c. Assist U.S. firms on a case-by-case basis to compete for business transactions with these countries by calling the attention of U.S. firms to specific sales, joint-venture, barter and other opportunities, arranging contacts between U.S. businessmen and officials of these countries and when needed participating in business discussion, suggesting methods for obtaining U.S. Government approvals and clearances, and in general making every effort to advance trade between the United States and these countries without actually becoming a part to transactions;

d. Develop and provide appropriate guidance and information on business related issues for official meetings between U.S. Government and Socialist country officials; and

e. Maintain broad East-West trade contacts and two-way information flow with trade and industry associations and the DIBA Office of Field Operations District Offices.

SECTION 6. OFFICE OF EAST-WEST COUNTRY AFFAIRS

.01 The *Office of the Director* includes: The *Director* who shall plan and direct the execution of policies and programs of the Office and the *Deputy Director* who shall assist in the direction of the Office and perform the functions of the Director in his absence. The Office shall also include the *Joint Commission Secretariat* which shall, in conjunction with the appropriate geographic divisions, provide executive secretariat services to U.S. joint commissions with the U.S.S.R., Poland, Romania, and others as may be established with other countries and to official meetings between high level government representatives of the Centrally Planned Economies (CPEs) and officials of the Bureau and Department; and coordinate all aspects of the preparation for meetings of such commissions and their follow-up. The Director shall supervise and direct the following organizational components:

.02 The geographic divisions as listed below shall maintain full familiarity with the economy and the economic and political policies of the country and area for which each is responsible, and with U.S. trade and other commercial relations involved:

U.S.S.R. Affairs Division
Eastern European Affairs Division
People's Republic of China Division

In carrying out this responsibility, each division shall: a. Assemble, analyze and disseminate information on foreign economic conditions, tariffs, laws, and regulations, including support to the Office of East-West Trade Development market assessment effort and responsibility by furnishing analytical surveys on individual country markets, as well as information on specific industries. Materials shall be disseminated to the U.S. business community primarily through the Office of East-West Trade Development and also made available for use by other Government agencies and other interested parties;

b. Develop recommendations with respect to the positions of the Department on policy and legislative matters regarding bilateral problems of international trade and investment with Socialist countries, and on international economic integration activities in the region, e.g., Council for Economic Mutual Assistance (CEMA), and inter-governmental organizations involving those countries or regions;

c. Develop and provide appropriate country-oriented information and advice for use by the U.S. co-chairmen of joint trade commissions, and participate appropriately in their deliberations and activities;

d. Provide appropriate liaison with and/or participation in private sector bilateral joint commissions or groups with these countries, the U.S. Chamber of Commerce as it relates thereto, and develop and provide relevant country oriented information and advice reflecting the Bureau's interests;

e. Initiate and pursue, directly or through the Foreign Service of the United States and other channels, representation on behalf of U.S. business interests for the maintenance of full rights under terms of treaties and international agreements of the United States, and identify and evaluate foreign impediments to U.S. commercial interests and take action to eliminate or alleviate their adverse impact;

f. Maintain centralized contacts and communications control on country and regional economic and trade matters with foreign government representatives in the United States and in various economic and commercial organizations in each CPE, the Department of State, U.S. Foreign Service Posts abroad and other U.S. Government agencies, and intergovernmental organizations;

g. Develop and provide country and regional information and guidance (1) to the Office of Policy Planning and Coordination on relevant policy studies and projects; (2) to the Office of East-West Trade Development for use in determining which CPE markets should be addressed by the Bureau's Trade Promotion efforts; and (3) to the Office of Export Administration on relevant export control policy issues and licensing problems;

h. Develop appropriate guidance on matters under their jurisdiction for Departmental and Bureau officials for use at meetings of the East-West Foreign Trade Board and its Working Groups and other inter-agency groups concerned with such matters; and

i. Participate in seminars, conferences, and briefing sessions arranged by the Office of East-West Trade Development for businessmen or country/regional specialists to provide relevant information on the area involved and on the activities of the Bureau with respect thereto.

SECTION 7. OFFICE OF EAST-WEST POLICY AND PLANNING

.01 The *Office of the Director* includes: the *Director* who shall plan and direct the activities of policy and programs of the Office and the *Deputy Director* who shall assist in the direction of the Office and perform the functions of the Director in his absence.

.02 The Office shall: a. Coordinate for the Bureau the formulation and analysis of overall policy issues (with the exception of those policy issues associated with administering the Export Administration Act of 1969, as amended, which shall be the primary responsibility of the Office of Export Administration) arising in East-West trade activities, the development of policy options, objectives, goals, benefits and costs relating thereto and the formulation of recommendations thereon;

b. Coordinate the Bureau's review of recommendations on existing and proposed East-West trade related legislation;

c. Coordinate overall East-West trade policy review with international trade, monetary, finance, research and technical organizations. Maintain liaison with international organizations concered with the making of special analyses on overall East-West matters;

d. Monitor East-West trade activities of national and international organizations such as the Economic Commission for Europe, the General Agreement on Tariff and Trade (GATT), the International Monetary Fund (IMF) and the International Energy Program (IEP). Advise interested parts of the Department (including the principal liaison function with IEPR) in policy development regarding international organizations and programs concerned with the countries and areas involved;

e. Carry out macro-analytic studies in support of the policy group and for use by other Bureau offices on such topics as trade projections, balance of payments, econometric modeling of trading economies, U.S. policy regarding government and/or private financing of East-West trade, and the determination of the economic and social impact of East-West trade on the U.S., its trading partners, and relevant third countries.

f. Coordinate for the Bureau and the Department the development of analyses and recommendations on matters for consideration by the East-West Foreign Trade Board (and its Working Group), the Council on International Economic Policy and the National Security Council and their sub-groups in matters of concern to the Bureau and provide support to other interagency working groups and task forces concerned with East-West trade, other than individual CPE countries and U.S.-CPE bilateral issues which are the primary responsibility of the Office of Regional Economic Affairs.

g. Develop statistical data resources on East-West trade and make them available to the Office of East-West Trade Development for distribution to U.S. businessmen together with appropriate analysis; provide the statistic support for analyses, publications, general studies and market assessments by the relevant Offices of the Bureau; and

h. Maintain broad East-West trade contacts and two-way information flow with academic institutions and cultural organizations, and provide necessary support for the Advisory Committee on East-West Trade.

i. Organize and coordinate in cooperation with the Department of State and other offices of the Bureau periodic meetings abroad between Washington agency representatives and economic/commercial officers from U.S. Missions in the Socialist countries and in other Western countries with important interests in Socialist country economic/commercial affairs for the purpose of improving communications, reviewing existing or new policy approaches and reviewing the Bureau's trade development and other programs existing or proposed.

SECTION 8. OFFICE OF EXPORT ADMINISTRATION

.01 The *Office of the Director* includes: The *Director* who shall plan and direct the formulation and execution of policies and programs of the Office in implementation of the Export Administration Act of 1969, as amended; the *Deputy Director* who shall assist in the direction of the Office and perform the functions of the Director in his absence; and the *Operating Committee (OC) Chairman*, who shall direct the OC, the Commerce Department's interagency senior staff level working committee through which information, advice and policy positions from other departments and agencies concerned with controls over exports are sought and obtained by the Department. The OC is an integral part of the interagency committee structure addressing policy issues associated with export controls and includes the Advisory Committee on Export Policy (ACEP—at the Assistant Secretary level) and the Export Administration Review Board (EARB—at the Cabinet level). The Office of the Deputy Assistant Secretary for East-West Trade is responsible for providing the Executive Secretary function to the ACEP and the EARB. The Chairman of the OC shall serve in this capacity. The Director or his designees shall administer and, in conjunction with the Department's Office of the General Counsel, enforce the export control regulations and programs required to carry out Departmental responsibilities under the Export Administration Act of 1969, as amended. The Director shall supervise and direct the following organizational components:

.02 The *Policy Planning Division* shall develop recommendations for export control policies to be applied to specific countries and commodities and technical data; recommend the disposition of certain license applications which present special policy or security problems; represent the Department on certain committees and working groups of the Department of State's Economic Defense Advisory Committee (EDAC) and coordinate Department policies and programs concerning United States and international export controls and U.S. economic defense; and represent the Department on national security and foreign policy matters involving export controls before the Operating Committee of the Advisory Committee on Export Policy (ACEP).

.03 The *Operations Division* shall process license applications; develop internal operating procedures; conduct public contact activities; issue U.S. import certificates; prepare analytical and statistical reports on export control activities; develop and publish export control regulations and procedures as well as instructions for Foreign Service Officers; provide staff support to the Export Administration Technical Advisory Committees; carry out Bureau emergency readiness and planning functions; collect and disseminate statistics on requests made to U.S. exporters to cooperate in restrictive trade practices or boycotts; and prepare the semi-annual report of the Secretary of Commerce on Export Administration to the President and the Congress, and prepare all other OEA publications and reports.

.04 The *Compliance Division* shall ensure compliance with the export administration regulations, develop intelligence, information regarding areas of possible export administration violations, investigate suspected violations, and prepare cases on violations for referral to the Hearing Commissioner through the Office of the General Counsel or to the Office of the General Counsel for other legal guidance or action; promote compliance with export administration clearance regulations; develop and coordinate methods and systems to reduce paperwork and simplify export documentation and clearance procedures; and maintain liaison with the Bureau of Customs, U.S. Postal Service, and other Government and private organizations on export administration compliance and facilitation matters.

.05 The *Technical Data Division* shall administer export controls over technical data in accordance with the provisions set forth in the Export Administration Act of 1969, as amended, and the policies and procedures established by the Office of Export Administration; act on export license applications for technical data; conduct studies of technology to establish a basis for recommendations on export administration policies, criteria and regulations; provide assistance to industry and other Government agencies on export control problems involving technical data; and represent the Department on committees dealing with East-West exchanges.

.06 The *Short Supply Division* shall administer short supply commodity control programs and monitor exports and contracts for exports when commodities are in present or potential short supply or likely to have an inflationary impact. In addition, the division shall coordinate the preparation of weekly and/or monthly reports of monitoring results, and the analysis of short supply activities in the semi-annual report to the Congress. Further, the division shall be responsible for the advance planning and proper programming necessary for a continued smooth and effective implementation of current and new short supply programs including monitoring activities. This division also has clearance responsibility within DIBA for all short supply activities.

.07 The product/licensing divisions as stated below: *Capital Goods and Production Materials Division, Scientific and Electronic Equipment Division.* Each of these divisions shall for the products under its jurisdiction, administer controls over exports in accordance with the Export Administration Act, as amended, and the policies and procedures established by the Office of Export Administration; determine and take appropriate action on export license applications; conduct technical analyses of products, including potential end-use applications, to determine and recommend the extent of controls to be applied; and render assistance to industry and other Government agencies on export administration problems within its jurisdiction.

SECTION 9. ADMINISTRATIVE, PUBLIC AFFAIRS AND FIELD SERVICES

.01 The Office of Public Affairs, DIBA shall furnish public affairs and information services to Bureau of East-West Trade organization units.

.02 The *Directorate of Administrative Management, DIBA* shall furnish management, budget, personnel, travel, and administrative services. The Directorate will also serve as liaison with Departmental elements providing other administrative services.

.03 Field support necessary to Bureau of East-West Trade activities will be provided by the field offices of the *Office of Field Operations* and by an *Export Administration Field Compliance Office* located in New York, N.Y., which investigates possible violations of export administration regulations.

SECTION 10. EFFECT ON OTHER ORDERS

This Order supersedes DIBA organization and Function Order 46-2 of December 4, 1972, as amended.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

DONALD E. JOHNSON,
Deputy Assistant Secretary for Domestic and International Business.

[FR Doc.75-34998 Filed 12-29-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[46-1]

BUREAU OF EAST-WEST TRADE

Organization and Function Order

This order effective November 17, 1975 supersedes the material appearing at 38 FR 9328 of April 13, 1973.

SECTION 1. PURPOSE

This order delegates authority to the Deputy Assistant Secretary for East-West Trade, and prescribes the organization and functions of the Bureau.

SECTION 2. DELEGATION OF AUTHORITY

.01 Pursuant to Department Organization Order 10-3, the following authorities delegated to the Assistant Secretary for Domestic and International Business by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for East-West Trade:

a. Such provisions of the Act of February 14, 1903, (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign commerce of the United States, as are necessary to the performance of the Bureau's functions;

b. The Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended and extended by the Equal Export Opportunity Act (Public Law 92-412, 86 Stat. 644), and the Export Administration Amendments of 1974 (Public Law 93-500, 88 Stat. 1552), the administration

of which was delegated to the Secretary of Commerce by Executive Order 11533 of June 4, 1970 as continued in effect by Executive Orders 11683 of August 29, 1972, 11798 of August 14, 1974, and 11818 of November 5, 1974, except that the following power, authority, and discretion shall be reserved to the Secretary:

(1) The determinations required by Section 7(c) with respect to the publication or disclosure of confidential information obtained under the provisions of the Act, and

(2) The submission of reports to the President and to the Congress required by Section 10 of the Act;

c. Executive Order 11490 of October 28, 1969, as it relates to the development of national emergency preparedness plans and programs concerning the regulation and control of exports and imports, under the jurisdiction of the Department, in support of national security, foreign policy, and economic stabilization objectives;

d. Executive Order 11322 of January 5, 1967 and Executive Order 11419 of July 29, 1968, relating to the exportation from the United States of commodities or products to or on behalf of Southern Rhodesia;

e. Such portions as are necessary to the performance of the Bureau's functions of the delegations of authority, dated June 25, 1962, from the United States Information Agency under Section 5(e) of Executive Order 11034 of June 25, 1962, as amended by Executive Order 11380 of November 8, 1967, insofar as said delegation pertains to U.S. participation in trade missions abroad under the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.); and

f. Other authorities of the Assistant Secretary applicable to performing the functions assigned in this Order.

.02 The Deputy Assistant Secretary may redelegate his authority to any employee of the Bureau of East-West Trade or to any other appropriate officer or agency of the Government, subject to such conditions in the exercise of such authority as he may prescribe.

SECTION 3. ORGANIZATION AND LINE OF AUTHORITY

.01 The Bureau of East West Trade shall be headed by the Deputy Assistant Secretary for East-West Trade, who shall report and be responsible to the Assistant Secretary for Domestic and International Business. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary during the latter's absence.

.02 The Bureau of East-West Trade shall consist of the following principal organizational elements:

Office of East-West Trade Development.
Office of East-West Country Affairs.
Office of East-West Policy and Planning.
Office of Export Administration.

SECTION 4. FUNCTIONS

The Bureau of East-West Trade shall be the principal point of contact within the Department on:

.01 Policies and programs with regard to trade promotion and other commercial relations with the socialist nations; peculiar to East-West trade; studies of

.02 Economic analyses of problems market potention for U.S. trade with the socialist nations; and analytic support for the development of trade policy and the conduct of trade negotiations;

.03 The interchange of information concerning East-West trade among U.S. and foreign industry groups, trade associations, universities, and other interested organizations;

.04 Export administration and related responsibilities under the Export Administration Act of 1969, as amended; and

.05 Executive secretariat services to U.S. joint commercial commissions with socialist nations.

SECTION 5. EFFECT ON OTHER ISSUANCES

This Order supersedes DIBA Organization and Function Order 46-1 of November 17, 1972.

TRAVIS E. REED,
Assistant Secretary for Domestic and International Business.

[FR Doc.75-34997 Filed 12-29-75;8:45 am]

Economic Development Administration

JOB OPPORTUNITIES PROGRAM

Terms and Conditions for Title X Projects

The Economic Development Administration hereby publishes the terms and conditions which apply to all projects receiving assistance pursuant to Title X of the Public Works and Economic Development Act of 1965, as amended. This material is not subject to the provisions of the Administrative Procedure Act (5 U.S.C. 553) because publication of the following document does not constitute agency rulemaking. However, because requests for the Title X terms and conditions have been received by EDA, it was determined that this information should be made available to the public by promulgation in the FEDERAL REGISTER.

TITLE X REQUIREMENTS

The following requirements will apply to funds provided by the Department of Commerce (hereinafter referred to as "Department") and the _____ (hereinafter referred to as "Transferee, including any grantee or contractor to whom such funds are made available by Transferee pursuant to any grant or contract for activities, programs or projects entered into as a result of the transfer of funds pursuant to Title X of the Public Works and Economic Development Act, as amended:

1. Transferee will provide assurance through rules, regulations and or grant or contract conditions that:

On any program, project, activity, or work performed pursuant to any grant or contract, for which financial assistance is provided under Title X employers shall hire unemployed persons, subject to the provisions of subsection (a) infra, who reside in the eligible area as set forth in section 1002 of the Public Works and Economic Development Act of 1965, as amended, in which the project is located. Preferred consideration, to the maximum extent feasible, will be given to persons who have exhausted unemployment benefits, to unemployed persons who are not eligible for unemployment benefits (except for persons lacking work experience) and to unemployed persons who have been unemployed for fifteen or more weeks.

Employers, when recruiting unemployed persons shall utilize services of the State Employment Service, Comprehensive Employment and Training Act (CETA) prime sponsors, or other appropriate local job-referral agencies or methods.

(a) When an employer is unable to recruit a qualified unemployed person who resides within the area in which the project is located:

(i) The employer may seek an unemployed person to fill the job from outside of the eligible area;

(ii) If the employer is still unable to recruit such unemployed person from outside of the area, a person who is not unemployed and who resides within the area may be hired;

(iii) In either (i) or (ii), memoranda must be maintained in the employer's project records of efforts to hire the unemployed.

2. Transferee will obligate all funds received under Title X not later than December 31, 1975. If it is determined that funds cannot be obligated by December 31, 1975, they should be returned to Department of Commerce for transfer to another agency.

3. Employment resulting from the transfer of funds under Title X will begin not later than 120 days from the date of transfer unless delayed by climatic conditions, in which case employment will begin as soon as practical. (If employment does not commence at that time, the funds will be deobligated and returned to the Department of Commerce to be transferred to another agency if required by the Department.)

4. At least seventy-five percent (75%) of the programs, projects, or activities funded under this Title X grant will be completed within twelve (12) months from the date of allocation of such funds. If this is not achieved, the Secretary of Commerce may take appropriate action.

5. All programs, projects, or activities funded under Title X shall not be inconsistent with locally approved comprehensive plans for the jurisdiction affected, whenever such plans exist. Such comprehensive plans shall include, but not be limited to, those plans prepared for the Economic Development Administration, the Department of Housing and Urban Development (HUD), or other normally recognized plans within the jurisdiction. Any projects which are inconsistent with such plans will not be approved.

6. No programs, projects, or activities for which funds are made available under this transfer shall be approved until the officials of the appropriate units of general government in the affected area have an adequate oppor-

tunity to comment, within the time constraints imposed by these terms and conditions, on the specific proposal. Applications from local units of Government will be deemed to have met this requirement.

7. No funds provided under this transfer shall be made available for programs, projects, or activities which have more necessary non-labor costs than originally estimated on the SEC–887 unless the program, project, or activity meets one of the following conditions:

(a) The funds are to be used to fund jointly a program authorized under Title II or VI of the Comprehensive Employment and Training Act of 1963, as amended, for necessary non-labor costs such as materials, supplies and equipment, if the overall project will provide a substantial number of jobs in an area of high unemployment;

(b) The funds are to be used to supplement funds of other Federal agencies or from non-Federal sources in order to permit the prompt initiation of projects which will stimulate the creation of jobs for unemployed persons in eligible areas, and where these supplemental funds provide not more than 20 percent (20%) of the total project costs. Grantees or contractors shall certify in the project records that other funding sources are not otherwise available and they shall estimate and document the number of jobs which are projected to result from this financial assistance; or

(c) The program, project, or activity funded will directly result in the creation of a significant number of permanent jobs in the private sector of the economy. Grantees or contractors shall certify in the project records that other funding sources are not otherwise available and estimate and document the number of jobs which are projected to result in the private sector from this financial assistance.

8. All programs, projects, or activities funded pursuant to Title X shall be located and operated in an eligible area. An eligible area is:

(a) Any area, which the Secretary of Labor designates as an area which has a rate of unemployment equal to or in excess of 6.5 percent for three consecutive months;

(b) Any area which is designated by the Secretary of Labor pursuant to Section 204(c) of CETA; and

(c) Any area which is designated by the Secretary of Commerce pursuant to Section 401 of the Public Works and Economic Development Act of 1965 as a redevelopment area.

9. Requirements for Financial Reports to be submitted by Transferee are as follows:

(a) Monthly report to be submitted by the 15th of the succeeding month showing transactions to include transfers, obligations, accrued expenditures, and disbursements. Estimated amounts may be reported for accrued expenditures, but actual amounts must be reported for all other changes or transactions. These reports must show changes and transactions by appropriation and then by project number. A sample monthly report is shown on page 3 of this attachment.

(b) Quarterly report on SF–133, "Report on Budget Execution", to be submitted by the 15th day of the succeeding quarter. The SF–133 must have detailed support for all projects showing cumulative totals, by appropriation and by project thereunder, of obligations, accrued expenditures, and cash disbursements. Estimated amounts may be reported for accrued expenditures, but actual amounts which agree with SF–224, "Statement of Transactions", must be reported for disbursements. (A sample of the required detail support for the SF–133 is attached.) The three monthly reports required in paragraph A must support the quarterly transactions reported on the SF–133. Differences must be identified with a detailed reconciliation by project.

(c) Annual Reports on SF–220 as required by Treasury Circular 966 and on Treasury Form 2108 as required by Treasury Circular No. 965.

(d) Annual Report on Federal Grants-in-Aid to States and Payments to Individuals, etc., as required by Treasury Circular No. 1014.

(e) SF–1151 returning all funds not obligated after the transfer from EDA in accordance with paragraph 2(a), Title X Terms and Conditions. This SF–1151 must be supported by a schedule showing unobligated funds by projects and is due whenever it can be determined projects will not be obligated and funds are being returned for reallocation. Subsequent deobligations, before the appropriation terminates, should be transferred back to EDA using Form SF–1151. Funds returned to EDA, before the appropriation terminates, will be reallocated to other agencies or projects.

The reports should be mailed to the following address:

Chief, Accounting Division, U.S. Department of Commerce, Economic Development Administration, Office of Administration and Program Analysis, Room 7417, Washington, D.C. 20230.

10. Transferee, if funds are used directly by Transferee, or its grantees or contractors, will provide reports, on forms to be supplied (ED–736 and ED–110X), of employment provided, work done and funds expended on each program, project, or activity on which these funds are used. Where possible, reports should be required prior to final disbursement of funds. Data supporting information in the reports must be maintained with information and records required for audit. Where consistent with agency practices, final payment to any contractor or grantee will not be made until a report, on forms to be provided to the Secretary of Commerce has been made.

11. It is the policy of the Department of Commerce that all Transferees give consideration to requiring grantees to use minority contractors and businessment for approved programs, projects, or activities, when such use can reasonably be accomplished.

12. No funds provided under this transfer shall be made available for any programs, projects, or activities when funds directly appropriated for such programs, projects, or activities are subject to an active deferral or rescission within the meaning of the Impoundment Control Act of 1974 (P.L. 93–344).

13. Before any program, project, or activity is approved by the Transferee for use of funds under this transfer, it must have been evaluated for its compliance or adherence to these terms and conditions, and the results of such evaluation reported, or forms to be provided, to the Secretary of Commerce, and the Secretary must have approved the use of these funds for such program, project or activity.

Dated: December 18, 1975.

WILMER D. MIZELL,
Assistant Secretary,
for Economic Development.

[FR Doc.75–35027 Filed 12–29–75;8:45 am]

National Oceanic and Atmospheric Administration

AMERICAN TUNABOAT ASSOCIATION

Issuance of General Permit

Notice is hereby given that a general permit was issued on December 19, 1975, to the American Tunaboat Association, 1 Tuna Lane, San Diego, California, to take marine mammals incidental to commercial fishing operations under category 2, "Encircling Gear: Yellowfin Tuna Purse Seining", pursuant to 50 CFR 216.24 (39 FR 32117–32124), as amended (40 FR 56899–56907, December 5, 1975).

The general permit is available for public inspection in the office of the Director, National Marine Fisheries Service, Washington, D.C. 20235 and the office of the Regional Director, National Marine Fisheries Service, Terminal Island, California 90731.

Dated: December 22, 1975.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Services.

[FR Doc.75–34789 Filed 12–29–75;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. III, 1973)) and as authorized by Section 7(k) Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 101 *et seq.*), the Secretary of Commerce shall establish the Advisory Committee on Fire Training and Education for the National Academy For Fire Prevention and Control.

The Committee shall report its findings and recommendations to the Administrator of the National Fire Prevention and Control Administration as to the desirability of establishing a mechanism for accreditation of fire training and education programs and courses. They shall also advise the Administrator as to what role the Academy should play if such an accreditation mechanism is recommended.

The Committee shall consist of nineteen members, the Academy Superintendent as Chairman and eighteen other members. The members of the committee will be appointed in such a manner as to insure a balanced representation of interests on the Committee.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, on January 13, 1976.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Fire Training and Education for the National Academy For Fire Prevention and Control. Such comments, as well as any inquiries, may be addressed to the Administrator, National Fire Prevention and Control Administration, U.S. Department of Commerce, Washington, D.C. 20230.

GUY CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

DECEMBER 18, 1975.

[FR Doc.75-35054 Filed 12-29-75;8:45 am]

WATCHES AND WATCH MOVEMENTS

Rules for Allocation of Quotas for Calendar Year 1976 Among Producers Located in the Virgin Islands, Guam and American Samoa

On November 21, 1975, the Departments of Commerce and the Interior published a joint Notice of Proposed Rule Making under Public Law 89-805, setting out the proposed formula for allocation of 1976 watch quotas among producers located in the Virgin Islands, Guam and American Samoa (40 Fed. Reg. 54274 et seq.). Interested parties were invited to participate in proposed rule making by submitting their written views on or before December 11, 1975.

One written comment was received by the Departments regarding the proposed rules which stated that utilization of actual income taxes paid during the prior year was a welcome change but that the previous allocation formula for the Virgin Islands (an equal weight of 40 percent assigned to production and shipment history and to wages subject to FICA taxes and a weight of 20 percent assigned to the total net dollar amount of income taxes) should be retained in the 1976 rules in order not to reward the "most inefficient operations" with additional quota.

With respect to the comment on the change in the Virgin Islands allocation formula, the Departments do not believe a sufficient case has been advanced to justify retention of the previous allocation formula. The Departments are convinced that, rather than encouraging inefficient operations, additional emphasis on wages will provide positive incentives for more firms to do complete assembly on their Virgin Islands movements and to expand production of more complex movements requiring greater labor imput. Conversely, firms will be dissuaded under the new formula from assembling movements requiring minimum labor, which would have the effect of reducing the total economic contribution accruing to the territory from the Headnote 3(a) watch assembly industry. The Departments have found that the amount of wages paid by firms in the territory is basically contingent upon the number of assembly operations performed and the complexity of movements assembled rather than a function of the relative efficiencies of the quota recipients.

Watch producers located in the Virgin Islands, Guam and American Samoa must receive their initial quota allocations for calendar year 1976 to avoid any interruption in their assembly operations and to enable these producers to contract for their inventory requirements and to accept and fill purchase orders for their 1976 quota allocations. Accordingly, good cause exists for making the following rules effective January 2, 1976.

SECTION 1. Upon effective date of these rules, or as soon thereafter as practicable, each producer located in the Virgin Islands, Guam, and American Samoa which received a duty-free watch quota allocation for calendar year 1975, will receive an initial quota allocation for calendar year 1976 equal to 50 percent of the number of watch units assembled by such producer in the particular territory and entered duty-free into the customs territory of the United States during the first ten months of calendar year 1975.

SECTION 2. Each producer to which an initial quota has been allocated pursuant to Section 1 hereof must, on or before April 1, 1976, have assembled and entered duty-free into the customs territory of the United States at least 30 percent of its initial quota allocation. Any producer failing to enter duty-free into the customs territory of the United States on or before April 1, 1976, a number of watch units assembled by it in a particular territory equal to, or greater than, 30 percent of the number of units initially allocated to such producer for duty-free entry from that territory will, upon receipt of a show cause order from the Departments, be given an opportunity, within 30 days from such receipt, to show cause why the duty-free quota which it would otherwise be entitled to receive should not be cancelled or reduced by the Departments. Such a show cause order may also be issued whenever there is reason to believe that shipments through December 31, 1976, by any producer under the quota allocated to it for calendar year 1976 will be less than 90 percent of the number of units allocated to it. Upon failure of any such producer to show good cause, deemed satisfactory by the Departments, why the remaining, unused portion of the quota to which it would otherwise be entitled should not be cancelled or reduced, said remaining, unused portion of its quota shall be either cancelled or reduced, whichever is appropriate under the show cause order. The Departments may also issue a show cause order to any producer which, for a period of two or more consecutive calendar years, has failed through its Headnote 3(a) watch assembly operation to make a meaningful contribution to the economy of the territory and to the continued development of the duty-free watch assembly industry in the territory, when compared with the performance of the territorial duty-free watch assembly industry as a whole. Among the factors the Departments may consider in taking this action are the producer's utilization of quota, amount of direct labor involved in the assembly of watches and watch movements shipped duty-free into the customs territory of the United States, and the net amount of corporate income taxes paid to the government of the territory. Upon failure of the producer to show cause, deemed satisfactory by the Departments, why such action should not be taken, the firm's quota shall be cancelled and the eligibility of the firm for further allocations terminated. In the event of any quota cancellation or reduction under this section, or in the event a firm voluntarily relinquishes a part of its quota, the Departments will reallocate the quota involved, in a manner best suited to contribute to the economy of the territories, among the remaining producers: Provided however, That if in the judgment of the Departments it is appropriate, applications from new firms may, in lieu of such reallocation, be invited for any part or all of any unused portions of quotas remaining unallocated as a result of cancellation or reduction hereunder or any quota voluntarily relinquished. Every producer to which a quota is granted is required to file a report on April 15, July 15 and October 15, of each year covering the periods January 1 to March 31, April 1 to June 30 and July 1 to September 30 respectively via registered mail on Form DIB-321P, copies of which will be forwarded to each producer at its territorial address of record at least 15 days prior to the required reporting date. Copies of this form may also be obtained from the Special Import Programs Division, Office of Import Programs, U.S. Department of Commerce, Washington, D.C. 20230. Form DIB-321P will provide the Departments with information regarding the producer's watch movement assembly operation in the insular possessions. Such information may include the status of beginning and ending inventories of finished watch movements and component parts, scheduled delivery dates and number of watch movement parts and

components ordered, number of watch movements assembled, number of watch movements entered into the customs territory of the United States, and a list of confirmed orders for shipment of finished watch movements into the customs territory of the United States, prior to December 31, 1976. Each producer to which a quota is granted will also report on Form DIB–321P any change in ownership and control which has occurred subsequent to the filing of an application for a watch quota on Form DIB–334P (see Section 9, below).

SECTION 3. Application forms will be mailed to recipients of initial quota allocations as soon as practicable and must be filed with the Departments on or before January 31, 1976. All data required must be supplied as a condition for annual allocation and are subject to verification by the Departments. In order to accomplish this verification it will be necessary for representatives of the Departments to meet with appropriate officials of quota recipients in the insular possessions in order to have access to company records. Representatives of the Departments plan to perform this verification beginning on or about February 15, 1976, in Guam and American Samoa and beginning on or about March 1, 1976, in the Virgin Islands, and will contact each producer locally regarding the verification of its data.

SECTION 4. (Virgin Islands only). The annual quotas for calendar year 1976 for the Virgin Islands will be allocated as soon as practicable after April 1, 1976, on the basis of (1) the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1975, (2) the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1975 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation, and (3) the total dollar amount of income taxes paid by such producer in the territory during calendar year 1975 attributable to its Headnote 3(a) watch assembly operations, excluding penalty payments and less any income tax refunds and subsidies paid to such producer during calendar year 1975. In making allocations under this formula, a weight of 35 percent will be assigned to Headnote 3(a) production and shipment history, a weight of 50 percent will be assigned to wages paid as specified above, and a weight of 15 percent will be assigned to the total dollar amount of income taxes paid during calendar year 1975 and attributable to Headnote 3(a) watch assembly operations, with the exclusions and deductions specified above.

SECTION 5. (Guam only) The annual quotas for calendar year 1976 for Guam will be allocated as soon as practicable after April 1, 1976, on the basis of the number of units assembled by each producer in the territory and entered by it duty-free into the customs territory of the United States during calendar year 1975, and the dollar amount of wages, up to a maximum of $13,200 per person, paid by such producer in the territory during calendar year 1975 to persons residing in the territory whose pay was attributable to its Headnote 3(a) watch assembly operation. In making allocations under this formula, 40 percent will be assigned to production and shipment history and 60 percent to wages as specified above.

SECTION 6. (American Samoa only) The annual quota for calendar year 1976 will be allocated to the producer in the territory as soon as practicable after April 1, 1976. Policies relative to the allocation of quota in American Samoa are set forth in the Departments' notice of June 9, 1967 (32 FR 8316 et seq.).

SECTION 7. (Virgin Islands and Guam) For purposes of allocating watch quotas for calendar year 1976 under Sections 4 and 5 above, any watches or watch movements shipped from the Virgin Islands or Guam during calendar year 1975 for duty-free entry into the customs territory of the United States against a producer's 1975 watch quota, and which were lost prior to entry into the customs territory of the United States, shall nevertheless be considered as having been entered into the customs territory for purposes of quota fulfillment: Provided, that the Departments have been satisfied that shipment was in fact made but lost prior to entry into the customs territory.

SECTION 8. (Virgin Islands and Guam) With respect to the Virgin Islands and Guam quotas, after taking into account the Headnote 3(a) shipments through March 31, 1976, of the 1976 quota recipients, the Departments may set aside 200,000 and 70,000 units respectively of the calendar year 1976 Virgin Islands and Guam quotas for new firms and invite quota applications from new firms on Form DIB–334P. The Departments may also require new firms to provide information regarding the applicant's experience in watch movement assembly and distribution; anticipated employment of local workers and proposed wage rates; watch movement assembly operations to be performed and types of movements to be assembled in the territories; estimated direct labor costs; anticipated capital investment in the territories; proposed source of financing; and plans for marketing movements assembled in the territories. (By "new firm" is meant an entity which has not heretofore been allocated a quota under Public Law 89–805 and which is completely separate from and unassociated with any present or previous producer in terms of ownership and control.) Based on the Departments' evaluation of the information submitted by applicants, the Departments may allocate a part or all of the set aside portion of the calendar year 1976 Virgin Islands and Guam quotas among those applicants whose proposals, in the judgment of the Departments, offer the likelihood of the greatest contribution to the economy of the territories, and in such a manner as, in the judgment of the Departments, will best serve the interests of the territories. Any part or all of the set aside quotas not allocated under this provision shall be reallocated among the 1976 quota recipients in the appropriate territories in a manner best suited to contribute to the economies of the territories.

SECTION 9. The rules restricting transfers of duty-free quotas issued on January 29, 1968, and published in the FEDERAL REGISTER on January 31, 1968 (33 F.R. 2399), are hereby incorporated by reference as applicable to transfers of quotas issued during calendar year 1976 except that detailed reporting of ownership and control will be reported on an annual basis on Form DIB–334P at the time the producer applies for an annual duty-free watch quota for calendar year 1976. Subsequent changes in ownership and control will be reported on April 15, July 15, and October 15, 1976, on Form DIB–321P required in Section 2 above.

Any interested party has the right to petition for the amendment or repeal of the foregoing rules and may seek relief from the application of any of their provisions upon a showing of good cause under the procedures relating to reviews by the Secretaries of Commerce and the Interior (15 CFR 13; 32 F.R. 15818, November 17, 1967).

Dated: December 23, 1975.

FRED M. ZEDER,
Director, Office of Territorial Affairs, Department of the Interior.

ALAN POLANSKY,
Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

[FR Doc.75–35020 Filed 12–23–75;12:24 pm]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY SCHOOL AID

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in the Emergency School Aid Act, Title VII of P.L. 92–318, as amended by P.L. 93–380 (20 U.S.C. 1601–1619) applications for assistance are being accepted from local educational agencies and from other public and private nonprofit organizations for basic grants under section 706 (a) of the Act, pilot projects under section 706(b) of the Act, projects to be carried out by public or nonprofit private organizations under section 708(b) of the Act, bilingual projects under section 708(c) of the Act, and special arts projects, special mathematics projects, special student concerns projects, and other special projects (including projects in Guam, the Trust Territory of the Pacific Islands, Puerto Rico, American Samoa,

and the Virgin Islands) under section 708(a) of the Act.

A. *Closing date for receipt of applications.* Applications for special projects under section 708(a) of the Act must be received by the U.S. Office of Education Application Control Center in Washington, D.C., on or before February 13, 1976.

Applications for basic grants, pilot projects, nonprofit organizaiton projects, and bilingual projects under sections 706(a), 706(b), 708(b), and 708(c) of the Act, respectively, must be received by the Application Control Center of the U.S. Office of Education Regional Office serving the area in which the applicant is located on or before February 13, 1976.

B. *Applications sent by mail.* All applications for special project grants under section 708(a) of the Act sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202. The address for such applications should be marked: Attention: 13.532C (for other special projects); Attention: 13.532D (for special arts projects); Attention: 13.532E (for special mathematics projects); or Attention: 13.532F (for special student concerns projects).

All applicaitons for grants under sections 706(a), 760(b), 708(b), and 708(c) of the Act sent by mail should be addressed to the appropriate U.S. Office of Education Regional Office listed below:

OFFICE OF EDUCATION REGIONAL OFFICES

Deadline for Submission (local time) 4:00 p.m.

Region I—(Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education Application Control Center, Room 2303, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.

Region II—(New York City)—New York and New Jersey. U.S. Office of Education Application Control Center, Room 3947, Federal Bldg., 26 Federal Plaza, New York 10007.

Region III — (Philadelphia) — Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. U.S. Office of Education Application Control Center, Room 16200, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV—(Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. U.S. Office of Education Application Control Center, Room 555, 50 Seventh Street NE., Atlanta, Georgia 30323.

Region V—(Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin. U.S. Office of Education Application Control Center, 32nd Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI—(Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma and Texas. U.S. Office of Education Application Control Center, Room 1440, 1200 Main Tower Bldg., Dallas, Texas 75202.

Region VII—(Kansas City)—Iowa, Kansas, Missouri and Nebraska. U.S. Office of Education Application Control Center, Room 360, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII — (Denver) — Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. U.S. Office of Education Application Control Center, Room 11037, Federal Office Bldg., 1961 Stout Street, Denver, Colorado 80202.

Region IX—(San Francisco)—Arizona, California, Hawaii and Nevada. U.S. Office of Education Application Control Center, Room 211, 50 Fulton Street, San Francisco, California 94102.

Region X—(Seattle)—Alaska, Idaho, Oregon and Washington. U.S. Office of Education Application Control Center, Room 508, Arcade Plaza Bldg., M/S 1505, 1321 Second Avenue, Seattle, Washington 98101.

An application sent by mail will be considered to have been received on time if: (1) The application was sent to the appropriate office by registered or certified mail not later than February 9, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate U.S. Office of Education mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, the U.S. Office of Education, or the appropriate Regional Office.

C. *Hand delivered applications.* Hand delivered applications for special project grants under section 708(a) of the Act must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

Hand delivered applications for grants under section 706(a), 706(b), 708(b) or 708(c) of the Act must be taken to the appropriate U.S. Office of Education Regional Office at the address listed in Part B of this notice. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4:00 p.m. No applications will be accepted after 4:00 p.m. local time on the closing date.

D. *Project periods.* Grant awards will be made pursuant to this notice for projects commencing no earlier than July 1, 1976, and terminating no later than June 30, 1977, except that awards for special student concerns projects will be made for a period commencing no earlier than July 1, 1976, and terminating no later than June 30, 1978.

E. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 185, relating to the Emergency School Aid Act and, except where inconsistent with Part 185, to the Office of Education general provisions regulations in 45 CFR Parts 100 and 100a, relating to direct project assistance programs.

F. *Program information and forms.* Information and application forms for special projects under section 708(a) of the Act may be obtained from the Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, Room 2017, 400 Maryland Avenue SW., Washington, D.C. 20202.

Information and application forms for projects under sections 706(a), 706(b), 708(b), and 708(c) of the Act may be obtained from the appropriate U.S. Office of Education Regional Office.

(Catalog of Federal Domestic Assistance numbers 13.525 (Basic Grants), 13.526 (Pilot Projects), 13.528 (Bilingual Projects), 13.529 (Projects to be carried out by Public or Private Nonprofit Organizations), and 13.532 (Special Projects)

Dated: December 22, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-34964 Filed 12-29-75;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF OBSTETRICAL-GYNECOLOGICAL DEVICES

Availability of Panel Report

In accordance with the provisions of a notice to manufacturers concerning obstetrical-gynecological classification procedures, published in the FEDERAL REGISTER of May 19, 1975 (40 FR 21848), the Food and Drug Administration announces the availability of the report of the Obstetrical-Gynecological Panel's classification results. This report contains the tentative classification conclusions of the Obstetrical-Gynecological Panel and includes a list of the devices reviewed, the answers to the classification logic scheme questions, and the recommended classification for each device.

Copies of this report are available upon request from the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. In addition, this report has been placed on public display at the office of the Hearing Clerk and may be viewed at that office during working hours, Monday through Friday.

Dated: December 16, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-34982 Filed 12-29-75;8:45 am]

REGULATORY INVESTIGATIONS OF DRUG, PESTICIDE, AND INDUSTRIAL CHEMICAL RESIDUES IN ANIMAL FEEDS AND IN MEAT AND POULTRY

Memorandum of Understanding With the Animal and Plant Health Inspection Service and Various State Agencies

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future agreements or memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs issues the following notice:

A Memorandum of Understanding between the Food and Drug Administration, Region III, the Delaware Dept. of Agriculture, Maryland Dept. of Agriculture, Pennsylvania Dept. of Agriculture, Virginia Dept. of Agriculture and Commerce, and the U.S. Dept. of Agriculture Regional Office/Animal and Plant Health Inspection Service was executed on November 12, 1975. The purpose of the memorandum is to establish a coordinated program among the participating agencies to determine the cause of illegal residue finding and, where warranted, to initiate appropriate corrective action. The memorandum sets forth a "working-sharing" program. It reads as follows:

MEMORANDUM OF UNDERSTANDING

Between

DELAWARE DEPARTMENT OF AGRICULTURE, MARYLAND DEPARTMENT OF AGRICULTURE, PENNSYLVANIA DEPARTMENT OF AGRICULTURE, VIRGINIA DEPARTMENT OF AGRICULTURE AND COMMERCE, U.S. DEPARTMENT OF AGRICULTURE REGIONAL OFFICE/ANIMAL AND PLANT HEALTH INSPECTION SERVICE

And

FOOD AND DRUG ADMINISTRATION, REGION III

Relative to Regulatory Investigations Involving Drug, Pesticide and Industrial Chemical Residues in Animal Feeds and in Meat and Poultry.

The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA), under the authority of the Federal Meat Inspection Act and the Poultry Products Inspection Act, is responsible for the wholesomeness and safety of meat and poultry intended for human consumption. This is accomplished by continuous inspection at slaughtering and processing establishments and by sampling and analyzing edible tissues derived from livestock and poultry at the time of slaughter to assure, among other things, that meat and poultry do not contain illegal residues of drugs, pesticides, and industrial chemicals.

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. In fulfilling its responsibilities under the act, FDA directs its activities toward the protection of the public health of the nation by ensuring that foods for humans and animals are safe and wholesome and that animal feeds are free of illegal drug, pesticide, and industrial chemical residues. This is accomplished by inspecting the processing and distribution of animal feeds and examining samples thereof to assure compliance with the act.

The Delaware, Maryland, and Pennsylvania Departments of Agriculture and the Virginia Department of Agriculture and Commerce, under their respective State authorities, conduct investigations and related activities to assure the safety and wholesomeness of foods and feeds.

Meat and poultry may become contaminated with illegal drug, pesticide, or industrial chemical residues from several sources, including the misuse of animal drugs, the use of animal feeds containing illegal drugs, pesticides, and industrial chemicals, or from the environment. As a result, the State agencies, APHIS, and FDA have certain related objectives in carrying out their respective regulatory and service activities. Therefore, it is desirable from the standpoint of public interest to set forth in this Memorandum of Understanding, the work-sharing program being adopted to enable each agency to discharge, as effectively as possible, its responsibilities relative to the problem of illegal drug, pesticide, and industrial chemical residues in meat, poultry, and in feeds for food-producing animals. This Memorandum of Understanding will also augment the agreement between FDA and APHIS relative to their regulatory programs involving residues in animal feeds and in meat and poultry, which was published in the FEDERAL REGISTER of April 10, 1975 (40 FR 16228).

I. *Purpose.* It is the purpose of this understanding to establish a coordinated effort among the participating agencies to promote efficient and prompt investigations of APHIS findings of illegal drug, pesticide and industrial chemical residues in edible tissue samples of meat or poultry in order to determine the cause of the illegal residue finding and, where warranted, to initiate appropriate corrective action.

II. *Objectives.* A. To reduce the potential for the disposition of illegal residues in human food stemming from the misuse of animal drugs and medicated feeds, pesticides, and industrial chemicals at the livestock producer level.

B. To provide a uniform investigational format, reporting system, and regulatory procedure for State and/or FDA responses to APHIS assay reports of tissue residue samples.

C. To develop a system to coordinate residue investigations and thus achieve a more efficient utilization of all available State and Federal manpower.

III. *Work-Sharing Program.* A. Goals and responsibilities: The parties to this understanding will share the responsibility for the investigation of APHIS reports of illegal residues found in edible tissue samples of meat or poultry originating in Region III of FDA. Close liaison and communication will be maintained to assure that manpower is efficiently utilized and regulatory efforts are properly coordinated to achieve a high level of industry compliance.

B. The Animal and Plant Health Inspection Service will:

1. Immediately notify the Food and Drug Administration, Region III, of findings of illegal drug, pesticide, or industrial chemical residues in edible tissue samples of meat or poultry and promptly transmit to FDA all other information relative to these actionable findings in Region III obtained by APHIS subsequent to such notification.

2. Make available to FDA any reports, documents, and samples necessary to support a regulatory action under the Federal Food, Drug, and Cosmetic Act involving illegal residues in meat and poultry.

C. The Food and Drug Administration, Region III, will:

1. Designate a coordinator to accomplish the goals of this memorandum of understanding.

2. Receive from APHIS copies of all USDA assay reports of illegal residues found in edible tissue samples of meat or poultry originating in the Region III area.

3. Provide guidance to State agencies for the performance of investigations.

4. Determine and initiate the appropriate course of action to be followed with respect to APHIS reports.

5. Monitor progress of investigations or other courses of action initiated to assure appropriate and timely completion.

6. Keep all parties to this understanding informed of the progress being made on actionable items and other relevant information.

D. The State agencies (Delaware Department of Agriculture, Maryland Department of Agriculture, Pennsylvania Department of Agriculture, and Virginia Department of Agriculture and Commerce) will:

1. Investigate all illegal residue reports submitted by the FDA coordinator to determine the cause of illegal residues and, where appropriate, to establish who is the culpable individual. Investigation will include documentation of all relevant facts by records, photographs, affidavits, and physical samples if appropriate. Investigational reports, including recommendations for corrective action, will be prepared by the investigator, endorsed by his supervisor, and forwarded to the FDA coordinator.

2. Attempt to achieve compliance during the course of an investigation by means appropriate to the particular situation.

3. Upon completion of the investigation, the director of the State agency will, in writing, advise the producer, shipper or other responsible individual of the findings of that investigation.

4. Refer requests for investigations that cannot be accomplished because of restrictive State laws or for other purposes back to the FDA coordinator for reassignment.

5. Provide for followup investigation where continuing operational deficiencies of the livestock producer are noted, so that appropriate regulatory action may be initiated under State statutes where applicable.

6. Notify the FDA coordinator of regulatory actions being initiated and final results.

7. Keep the FDA coordinator fully informed of pertinent details relating to this program, including copies of correspondence to producers, shippers, etc.

IV. *General Provisions.* A. *Planning sessions.* 1. Meetings of representatives from the participating agencies will be conducted periodically to review working arrangements, evaluate accomplishments, maintain program uniformity,

plan future program operations, and if necessary, recommend revisions of the understanding for the next term.

2. Meetings will be conducted on the fourth and tenth month after the effective date of this understanding, and on an annual basis thereafter.

3. The meetings will be conducted on an alphabetical rotational basis in the offices of the participating State agencies. The program coordinator will be responsible for preparation of the agenda. The host agency will be responsible for preparation of minutes of proceedings to be distributed to participants.

B. *Term of understanding.* 1. The provisions of this understanding become effective on the first day of the month following the latest signature date. It will expire on the last day of the twelfth effective month.

2. To be renewed it must be reviewed by all participating agencies, and an addendum stating its extension for another twelve-month period must be signed by the agencies.

3. Any agency may terminate its participation in this program upon thirty days' written notice to its partner agencies.

Approved and accepted:

M. Martin Isaacs, Secretary, Delaware Department of Agriculture. Dated: October 3, 1975.

James A. McHale, Secretary, Pennsylvania Department of Agriculture. Dated: October 2, 1975.

T. C. Maraviglia, Regional Food and Drug Director, Region III, FDA. Dated: September 30, 1975.

Young D. Hance, Secretary, Maryland Department of Agriculture. Dated: October 3, 1975.

S. Mason Carbaugh, Commissioner, Virginia Department of Agriculture and Commerce. Dated: October 2, 1975.

Melvin C. Hatter, D.V.M., Acting Administrator, USDA, Animal and Plant Health Inspection Service. Dated: November 12, 1975.

Effective date. This Memorandum of Understanding became effective November 12, 1975.

Dated: December 22, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-34983 Filed 12-29-75;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

EFFECTIVENESS OF COMPENSATORY EDUCATION

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on January 30, 1976 from 9 a.m.-5 p.m., and on January 31, from 9 a.m.-5 p.m. The meeting will be held in Boca Raton, Florida.

The National Advisory Council on the Education of Disadvantaged children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting will be held to review 1976 Annual Report materials and, to participate in a site visit at the Florence Fuller School in Boca Raton, Florida.

Because of limited space, all persons wishing to attend should call for reservations by January 5, 1976, Area Code 202/382-6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, NW., Suite 1012, Washington, D.C.

Signed at Washington, D.C., on December, 22, 1975.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.75-34946 Filed 12-29-75;8:45 am]

Office of the Secretary

PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Biomedical Research Panel on January 26 and 27, 1976, in Suite 3100, 2401 E Street, NW., Washington, D.C. 20506.

The meeting will be open to the public from 9 a.m. to 5 p.m. on January 26 and from 9 a.m. to 5 p.m. on January 27. Attendance by the public will be limited to space available. The agenda will address issues pertaining to the studies previously identified by the Panel as being germane to its Congressional mandate.

Substantive program information will be provided by Dr. Charles Lowe, Executive Director or the Panel (202-634-1907), Suite 3100, 2401 E Street, NW., Washington, D.C. 20506.

All requests for information should be directed to Ms. Rosemarie Lazo, at the above address.

Dated: December 16, 1975.

CHARLES U. LOWE,
Executive Director.

[FR Doc.75-34855 Filed 12-29-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 75 243]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Open Meeting

This is to give notice in accordance with section 10(a) of the Federal Advisory Committee Act (P.L. 92-463; 5 U.S.C. App. 1) of October 6, 1972 that the National Boating Safety Advisory Council (the Council) will conduct an open meeting on Wednesday, 4 February 1976, in Room 2230, Department of Transportation, NASSIF Building, 7th and D Streets SW., Washington, D.C. The meeting is scheduled to begin at 9 a.m.

The agenda for the Thirteenth Meeting of the Council is as follows:

1. Introduction of newly appointed Council members.
2. Review of action taken at the Twelfth Meeting of the Council.
3. Executive Director's Report.
4. Vote on concurrence to discontinue rulemaking procedures which would require recreational boats to carry a dewatering device (bailer) and a means of secondary propulsion (paddle).
5. Vote on need for shielding of 32 point stern navigation lights for recreational boats.
6. Discussion on Personal Flotation Device (P.F.D.) reliability.
7. Discussion of proposal by the National Association of State Boating Law Administrators (NASBLA) to discontinue acceptance of Type IV P.F.D.'s (buoyant cushions) in lieu of wearable devices, on boats less than 16 feet in length.
8. Briefing on the Coast Guard Research and Development efforts in support of the Boating Safety Program.
9. Report on European international standards.
10. Vote on concurrence of proposed Final Rulemaking action on the Exception to P.F.D. requirements for white water canoes and kayaks.
11. Review of boating education symposium.
12. Report on "Termination of Use" as associated with the Hazardous Bars Regulation.
13. Report by Visual Distress Signal Subcommittee.
14. Member items.
15. Chairman's session.
16. Discussion on date, place and thrust of next meeting.

The National Boating Safety Advisory Council was established in 1971 pursuant to Section 33 of the Federal Boat Safety Act of 1971 (P.L. 92-75, 46 U.S.C. 1451 et seq.). The Coast Guard is required to consult with the Council in determining the need for, and in prescribing, regulations and standards for boats and associated equipment. In addition, the Coast Guard is required to consult with the Council on any other major boating safety matters related to the Act.

Any member of the public who wishes to do so may file a written statement with the Council before or after the meeting, or may present an oral statement with advance notice to the Chairman.

Interested persons may seek additional information or the summary minutes of the meeting by writing to: Captain Merrill K. Wood, USCG, U.S. Coast Guard (G-BA/62 TRPT), Washington, D.C. 20590 or by calling (202) 426-1080.

Dated: December 15, 1975.

D. F. LAUTH,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc.75-35029 Filed 12-29-75;8:45 am]

Federal Aviation Administration

FEDERAL AVIATION ADMINISTRATION AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Fereral Aviation Administration Air Traffic Procedures Advisory Committee will hold a meeting at 9 a.m. e.s.t., January 27 through 12 p.m. January 30, 1976, at Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Washington, D.C.

The meeting will be in conference rooms 5A, B, and C, on January 27, 29, and 30, and in conference rooms 7A, B, and C on January 28. The following agenda items are scheduled for this meeting:

1. Election of a Chairman.
2. Explore alternative methods for disseminating information on the ATC system including the proposed Pilot/Controller Glossary and develop recommendations in this regard.
3. Review the Air Traffic Control Handbook.

The meeting will be open to the public. Interested persons are invited to attend the meeting and participate by making oral or written statements concerning those topics on the agenda. Written statements should be submitted in duplicate to Mr. Edward C. Krupinski, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Avenue, SW., Washington, D.C. 20591. Persons wishing to make oral statements at the meeting must notify Mr. Krupinski, by January 20, 1976. Presentations will be scheduled on a first come, first served basis as time permits. Requests for further information should be made to the Executive Director, Air Traffic Procedures Advisory Committee.

Issued in Washington, D.C., on December 16, 1975.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.75-34941 Filed 12-29-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27592 Agreement C.A.B. 25605]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements on Currency Matters

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to currency matters.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

The agreement would amend an existing resolution, which permits any IATA member to rescind currency conversion resolutions 021L and 021LL, by extending the period for such rescission from March 31, 1976 to September 30, 1976, due to the postponement of an IATA conference.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Resolution 100,200,300 (Mail 993,272,465) 001 mm, incorporated in Agreement C.A.B. 25605, is adverse to the public interest or in violation of the Act.

Accordingly, IT IS ORDERED THAT:

Agreement C.A.B. 25605 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-35057 Filed 12-29-75;8:45 am]

[Docket 27573; Agreement C.A.B. 25432, R-2 and R-3, Agreement C.A.B. 25433, R-5, Agreement C.A.B. 25437, R-3, Agreement C.A.B. 25509, Agreement C.A.B. 25510, Agreement C.A.B. 25546, R-1 and R-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements on Commodity Rates

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to specific commodity rates. Issued under delegated authority December 19, 1975.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates or by mail vote, have been assigned the above C.A.B. agreement numbers.

Agreements C.A.B. 25432, R-2 and R-3; C.A.B. 25433, R-5; C.A.B. 25437, R-3; and C.A.B. 25546, R-1 and R-2, establish additional specific commodity rates for application between U.S. points and points in the South Pacific. Agreement C.A.B. 25509 in essence would common-rate Kaohsiung with Taipei with respect to specific commodity traffic moving between Kaohsiung and points within the Pacific except that commodity rate traffic to/from Japan, Korea and Guam would remain subject to the present add-on for Kaohsiung over Taipei. Finally, Agreement C.A.B. 25510 establishes new add-ons and increases existing add-ons for construction of through specific commodity rates between various points in Brazil and points within the Pacific over Belem and Rio de Janeiro.

We will disapprove the proposed South Pacific specific commodity rates consistent with our actions in Order 75-11-78, dated November 21, 1975, which dealt with the proposed IATA South Pacific cargo rates structure, but will approve the remaining charges as outlined above.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14:

1. It is not found that Agreements C.A.B. 25509 and C.A.B. 25510 are adverse to the public interest or in violation of the Act:

2. It is found that the specific commodity rates incorporated in Agreements C.A.B. 25432, R-2 and R-3; C.A.B. 25433, R-5; C.A.B. 25437, R-3; and C.A.B. 25546, R-1 and R-2 are adverse to the public interest and in violation of

Accordingly, IT IS ORDERED THAT:

1. Agreements C.A.B. 25509 and C.A.B. 25510 be and hereby are approved; and

2. Agreements C.A.B. 25432, R-2 and R-3; C.A.B. 25433, R-5; C.A.B. 25437, R-3; and C.A.B. 25546, R-1 and R-2 be and hereby are disapproved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-35028 Filed 12-29-75;8:45 am]

[Docket 28122]

SHREVEPORT-DALLAS NONSTOP PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 20, 1976, at 10:00 a.m. (local time), in the Conference Room, 3rd Floor, Shreveport Regional Airport Terminal Building, Shreveport Regional Airport, 5103 Hollywood Avenue, Shreveport, Louisiana, before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on September 23, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 22, 1975.

[SEAL] GREER M. MURPHY,
Administrative Law Judge.

[FR Doc.75-35055 Filed 12-29-75;8:45 am]

[Docket 28146]

WESTERN AIR LINES, INC. U.S.-MEXICO PASSENGER FARES

Postponement of Prehearing Conference

Pursuant to applicant's request and with concurrence of the Bureau of Economics, notice is hereby given that the prehearing conference in the above-entitled matter now scheduled for January 6, 1976 (40 F.R. 56963, dated December 5, 1975), is postponed until January 7, 1976, at 10:00 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., December 22, 1975.

[SEAL] WILLIAM A. KANE, JR.,
Administrative Law Judge.

[FR Doc.75-35056 Filed 12-29-75;8:45 am]

CIVIL RIGHTS COMMISSION

CONNECTICUT 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 Connecticut Advisory Committee (SAC) to this Commission will convene at 5:30 p.m. on January 22, 1975, at the Gloria Busch's House, 5 Long Lane, Middletown, Connecticut 06457.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss EEO in city government and commission's school desegregation project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 18, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-34991 Filed 12-29-75;8:45 am]

MISSOURI 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 Missouri Advisory Committee (SAC) to this Commission will convene at 1 p.m. and end at 5 p.m. on January 20, 1976, at the Federal Building 1520 Market Street (Room 1620), St. Louis, Missouri 64103.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 22, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-34992 Filed 12-29-75;8:45 am]

NEW JERSEY 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 New Jersey Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on January 29, 1976, at the Ramada Inn, New Jersey Turnpike at Route 18, New Brunswick, New Jersey.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss the SAC's abortion and migrant projects.

This meeting will be conducted pursuant to the rules and regulations.

Dated at Washington, D.C., December 19, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-34993 Filed 12-29-75;8:45 am]

NORTH DAKOTA AND SOUTH DAKOTA ADVISORY COMMITTEES

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 North Dakota and South Dakota Advisory Committees (SAC) to this Commission originally scheduled for January 19, 1976, has been canceled.

Dated at Washington, D.C., December 22, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-34994 Filed 12-29-75;8:45 am]

VERMONT 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 Vermont Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on January 19, 1976, at the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss status of projects.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 19, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-34995 Filed 12-29-75;8:45 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, January 14, 1976. This meeting will be held in room 5A06A of the U.S. Civil Service Commission building, 1900 E Street, N.W., and will consist of continued discussions on future comparability adjustments for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.75-35062 Filed 12-29-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Additions to Procurement List

Notice of proposed additions to Procurement List 1976, November 25, 1975

(40 F.R. 54742) were published in the FEDERAL REGISTER on October 24, 1975 (40 F.R. 49816).

Pursuant to the above notice the following commodities are added to the Procurement List:

CLASS 3990:	Price/Each
Skid, Wood (SH)	
3990-00-366-6810	$1.08
3990-00-366-6814	1.71
3990-00-366-6815	2.42
3990-00-366-6816	3.62
3990-00-366-6817	3.86
3990-00-366-6819	4.67
3990-00-366-6820	5.70
Pallet, Wood (SH)	
3990-00-366-6821	5.63
Cap, Wood (SH)	
3990-00-366-6824	3.73

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-35025 Filed 12-29-75;8:45 am]

PROCUREMENT LIST FOR 1976

Additions to Procurement List

Notice of proposed additions to Procurement List 1976, November 25, 1975 (40 F.R. 54742) were published in the FEDERAL REGISTER on September 26, 1975 (40 F.R. 44349) and October 17, 1975 (40 F.R. 48710).

Pursuant to the above notices the following commodities are added to the Procurement List:

CLASS 7530:		Price
Tape, Paper, Computing Machine (IB)		
7530-00-286-9052	roll	$0.121
7530-00-222-3456	do	0.134
7530-00-286-9053	do	0.139
7530-00-286-9054	do	0.152
7530-00-238-8352	do	0.178
7530-00-222-3456	do	0.195
7530-00-286-9055	do	0.215
Paper, Teletypewriter, Roll (IB)		
7530-00-223-7966 for GSA Regions 4, 5 & 6 only	do	0.70
CLASS 7520:		
Easel, Display & Training (IB)		
7520-00-579-7013	each	$21.66

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-35026 Filed 12-29-75;8:45 am]

PROCUREMENT LIST FOR 1976

Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1976, November 25, 1975 (40 F.R. 54742).

CLASS 7510:
Binder, Awards Certificate
7510-00-115-3250
Binder, Looseleaf
7510-00-409-8646
7510-00-409-8647
7510-00-582-5398
7510-00-582-5399
7510-00-582-5400
7510-00-889-3494
7510-00-766-4269
CLASS 7930:
Detergent, General Purpose
7930-00-177-5243
CLASS 8460:
Suitcase, Coated Cloth, Sage Green
8460-00-391-0502

Comments and views regarding these proposed additions may be filed with the Committee not later than January 28, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.75-35024 Filed 12-29-75;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

NOTICE OF PUBLIC MEETINGS

Notice is hereby given of two field meetings in Tennessee of the Commission on Federal Paperwork.

The Commission will be holding a public meeting in Nashville, Tennessee, on January 8, 1976, at the United States Federal Courthouse, Room A-440, 801 Broadway Avenue. The meeting will commence at 9:00 a.m. and end at 1:00 p.m. The Commission will receive comments from various individuals in the areas of agri-business, manufacturing, State government, health, housing, and labor about the impact of Federal agency reporting requirements.

The Commission will hold a second public meeting in Knoxville, Tennessee, on January 9, 1976, at the McGhee Tyson Airport in the Skychef Banquet Room. The meeting will commence at 9:00 a.m. and end at 1:00 p.m. The Commission will receive comments from various individuals in the areas of Federal, State, and local government, manufacturing, finance, education, veterans' affairs, and labor about the impact of Federal agency reporting requirements.

Testimony presented at these meetings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the meetings should contact the Commission on Federal Paperwork, located at 1111 20th Street NW., Suite 200, Washington, D.C. 20582, telephone (202) 254-6786.

FRANK HORTON,
Chairman.

[FR Doc.75-35081 Filed 12-29-75;8:45 am]

DEFENSE MANPOWER COMMISSION

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Commissioners of the Defense Manpower Commission will meet on Janaury 15, 1976 at 1:00 p.m. in the Conference Center, Lower Lobby (LL), of the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20036. The purpose of the meeting will be to conduct a review of the General Level and Structure of Military Compensation. The above issues are subject to change dependent upon staff progress, and other subjects may be substituted.

The meeting will be open to the public. Because of limited space, interested persons wishing to attend should telephone (202) 254-7803 prior to each meeting.

Dated: December 28, 1975.

BRUCE PALMER, Jr.,
General, USA (Ret.),
Executive Director.

[FR Doc.75-35079 Filed 12-29-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SPENT FUELS; CHEMICAL PROCESSING AND CONVERSION

Price Change

Notices entitled "Spent Fuels Chemical Processing and Conversion", 33 FR 30, January 3, 1968; with amendments 35 FR 8715, June 4, 1970, 35 FR 18302, December 1, 1970, and 40 FR 3031, January 17, 1975, issued by the U.S. Atomic Energy Commission and in effect on January 19, 1975, the effective date of the Energy Reorganization Act of 1974, Public Law 93-438, by the terms of Sec. 301 (b) of that Act, continue in effect according to their terms. Those notices set forth the terms of the ERDA's undertaking to receive irradiated reactor fuels and blanket materials, and to make settlement therefor.

The following notice concerning the foregoing constitutes a revision of the ERDA prices for the services of Chemical Processing for certain uranium fuels.

Paragraph 7d of the notice as previously amended by notice of 35 FR 18302, December 1, 1970, is hereby amended to read as follows:

7d. A charge for the conversion to uranium hexafluoride of the purified nitrate salt of uranium (except uranium enriched in the isotope uranium-233) produced by the ERDA in its processing of reactor materials as follows:

1. Conversion of purified low-enrichment uranyl nitrate into UF_6: $60.00 per kilogram contained uranium.

2. Conversion of purified high-enrichment uranyl nitrate into UF_6: $135 per kilogram contained uranium.

As used in this section "low-enrichment uranium" means 5 percent (by weight) and less of U^{235} in total uranium, and "high-enrichment uranium" means more than 5 percent (by weight) of U^{235} in total uranium.

Because this revision involves a matter relating to agency management or personnel or to public property, loans, grants, benefits or contracts, Sec. 553 of Title 5 U.S. Code does not apply, and this notice is effective on the date of

publication without advance notice. This notice is issued under the authority of 42 U.S.C. 2201 and 42 U.S.C. 5815.

Effective date: December 30, 1975.

RICHARD W. ROBERTS,
Assistant Administrator for Nuclear Energy.

[FR Doc.75-34762 Filed 12-29-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP—50053; FRL 473-4]

AMERICAN CYANAMID COMPANY

Extension of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an extension of an experimental use permit has been issued to the American Cyanamid Company, Princeton, New Jersey 08540. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 241-EUP-70) allows the use of 18,300 pounds A.I. of the herbicide difenzoquat methylsulfate (1,2-dimethyl-3,5-diphenyl-1*H*-pyrazolium methyl sulfate) on wheat straw at 20 parts per million (ppm), and on wheat grain, meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm. A total of 22,200 acres is involved; the program is authorized only in Arizona, California, Idaho, Kansas, Montana, Oklahoma, Oregon, Texas, and Washington. The extended experimental use permit is effective from December 15, 1975, to December 15, 1976. Temporary tolerances have been established for residues of the active ingredient in or on the raw agricultural commodities noted above (Petition No. PP 5G1576).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters office, so that the appropriate permit may be made conveniently available for review purposes .These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: December 22, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc. 75-34936 Filed 12-29-75;8:45 am]

[OPP—50054; FRL 473-5]

AMERICAN CYANAMID COMPANY

Issuance of Extension of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an extension of an experimental use permit has been issued to the American Cyanamid Company, Princeton, New Jersey 08540. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the Federal Register on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 241-EUP-64) allows the use of 3,100 pounds A.I. of the herbicide difenzoquat methylsulfate (1,2-dimethyl-3,5-diphenyl-1*H*-pyrazolium methyl sulfate) on barley straw at 20 parts per million (ppm), on barley grain at 0.2 ppm, and on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm. A total of 3,750 acres is involved; the program is authorized only in Arizona, California, and Oregon. The extended experimental use permit is effective from December 15, 1975, to December 15, 1976. Temporary tolerances have been established for residues of the active ingredient in or on the raw agricultural commodities noted above (petition no. PP 4G1453).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: December 22, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.75-34937 Filed 12-29-75;8:45 am]

[PP6G1659 & PP6G1660/T23 FRL 473-6]

U.S. BORAX CORP.

Establishment of a Temporary Tolerance N³,N³-di-n-propyl-2,4-dinitro - 6-trifluoromethyl-m-phenylenediamine

U.S. Borax Corp., 412 Crescent Way, Anaheim CA 92801, submitted two petitions (PP 6G1659 and PP 6G1660) to the Environmental Protection Agency (EPA). These petitions requested that a temporary tolerance be established for residues of the herbicide N³,N³-di-*n*-propyl- 2, 4- dinitro-6-trifluoromethyl-*m*-phenylenediamine to permit the marketing of certain raw agricultural commodities treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act. Petition PP 6G1659 requested that a temporary tolerance be established for residues of the herbicide in or on the raw agricultural commodities almond hulls, grapes, nuts, and stone fruit at 0.1 part per million (ppm). Petition PP 6G1660 requested that a temporary tolerance be established for residues of the herbicide in or on soybeans, soybean hay, soybean forage, cottonseed, and cotton forage at 0.1 ppm.

An evaluation of the scientific data reported in the petitions has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the tolerance will protect the public health. Therefore, the temporary tolerance is established for this herbicide with the following provisions:

1. The total amount of the herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. U.S. Borax Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of product, distribution, and performance and on request make such records available to any authorized officer or employee of the EPA or the Food and Drug Aduministration.

The temporary tolerance expires December 22, 1976. Residues not in excess of 0.1 ppm remaining in or on the above raw agricultural commodities after expiration of this temporary tolerance will not be considered actionable if the herbicide has been legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this herbicide indicate such revocation is necessary to protect the public health.

Dated: December 22, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-34983 Filed 12-29-75;8:45 am]

[OPP—30105; FRL 474-6]

HEXAMETHYLENE CARBAMIDE

Notice of Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Boyle-Midway Inc., South Avenue & Hale St., Ganford NJ 07016, has submitted to the Environmental Protection Agency (EPA) an application (EPA File Symbol 475-ENA) to register the pesticide product RIDZ PERSONAL INSECT REPELLENT containing 25.0% of the active ingredient hexamethylene carbamide which has not been included in any previously registered pesticide product. The application proposes that the product be classified for general use as an insecticide. Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of section 3(c)(4) of FIFRA [40 CFR 162.6(b)(6)] and does not indicate a decision by this Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on the application referred to in this notice to the Federal Register

Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., East Tower, Room 401, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before January 29, 1976 and should bear the notation "EPA File Symbol 475-ENA". Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the application to register this pesticide product will be announced in the FEDERAL REGISTER.

The label furnished by Boyle-Midway Inc. for RIDZ PERSONAL INSECT REPELLENT as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: December 23, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-35066 Filed 12-29-75;8:45 am]

[OPP-30104; FRL 474-5]

HYLON

Notice of Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Whitmoyer Laboratories, Inc., 19 N. Railroad St., Myerstown, PA 17067, has submitted to the Environmental Protection Agency (EPA) an application (EPA File Symbol 984-AT) to register the pesticide product HYLON containing 20.0% of the active ingredient N-alkyl (50% C12, 40% C12, 10% C16) dimethyl benzyl ammonium chloride and 3.8% of the active ingredient 2-cyclohexyl-4,5-dichloro-4-isothiazolin-3-one which has not been included in any previously registered pesticide product. The application proposes that the product be classified for general use as a disinfectant for animal premises and hospitals. Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 136 et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of section 3(c)(4) of FIFRA [40 CFR 162.6(b)(6)] and does not indicate a decision by this Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on the application referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, East Tower, Room 401, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before January 29, 1975, and should bear the notation "EPA File Symbol 984-AT". Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the application to register this pesticide product will be announced in the FEDERAL REGISTER.

The label furnished by Whitmoyer Laboratories, Inc., for HYLON as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: December 23, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-35067 Filed 12-29-75;8:45 am]

[PF 25; FRL 474-4]

AMERICAN CYANAMID CO.

Pesticide Petition; Filing

American Cyanamid Co., Agricultural Div., PO Box 400, Princeton, NJ 08540, has submitted a petition (PP 6F1704) to the Environmental Protection Agency which proposes that 40 CFR 180.361 be amended to establish a tolerance for the combined negligible residues of the herbicide *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitro benzyl alcohol in or on the raw agricultural commodities soybeans, soybean forage, and soybean hay at 0.1 part per million. The proposed analytical method for determining residues of both the parent compound and its metabolite is a gas chromatographic procedure using an electric capture detector. (PM25)

Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "PP 6F1704". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: December 23, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-35068 Filed 12-29-75;8:45 am]

[FRL 474-1]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of Maine

On December 23, 1971, (36 FR 24876), March 8, 1974 (40 FR 43850), pursuant to Section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing Standards of Performance for New Stationary Sources (NSPS) for eighteen categories of stationary sources. On April 6, 1973, (38 FR 8820), pursuant to Section 112 of the Clean Air Act, as amended, the Administrator promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPS) for three pollutants. Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On August 30, 1973, the Regional Administrator, Region I, EPA, forwarded to the State of Maine, information setting forth the requirements for an adequate procedure for implementing and enforcing the standards for NSPS and NESHAPS. Subsequently, EPA and the State discussed several delegation proposals. On October 7, 1975, the State and EPA agreed upon the wording and contents of the final request during a conference call. At that time, the State was not aware of the NSPS promulgated August 6, 1975, and September 23, 1975; thus these six source categories were not mentioned or intended to be included in the State's request. On October 14, 1975, amendments to the asbestos and mercury standards were promulgated (40 FR 48292). These amendments were not intended to be included in the State's request for delegation. Therefore, the delegation approval is effective as of October 7, 1975, the date of the conference call, and thus excludes these new NESHAPS amendments.

On October 15, 1975, William R. Adams, Jr., Commissioner of the Maine Department of Environmental Protection (DEP) submitted to the EPA Region I Office a request for delegation of authority. The request letter cited the appropriate Maine Statutes and DEP regulations which demonstrated the adequacy of the State's procedures. Appended to the State's request was an opinion from the Maine Attorney Gen-

eral's Office concerning the adequacy of State authority for assuming delegation. Also appended to the State's request was a copy of a change in the Maine Air Emission Licensing Regulation, making Federal NSPS and NESHAPS requirements the standard for defining Best Practical Treatment in order to accommodate delegation of NSPS and NESHAPS. After a thorough review of Maine's request, the Regional Administrator has determined that for the source categories set forth in paragraphs (A) and (B) of the following official letter to William R. Adams, Jr., delegation is appropriate subject to the conditions set forth in items (1) through (10) of that letter:

MR. WILLIAM R. ADAMS, Jr.,
Commissioner, Department of Environmental Protection,
State House, Augusta, Maine

DEAR MR. ADAMS: This is in response to your letter of October 15, 1975, requesting delegation of authority for implementation and enforcement of the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the State of Maine, Department of Environmental Protection (DEP).

The Environmental Protection Agency, Region I, (EPA), has reviewed the pertinent laws of the State of Maine and the rules and regulations of the DEP and has determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS by the State of Maine. Therefore, we hereby grant delegation of the NSPS and NESHAPS to the State of Maine Department of Environmental Protection as follows:

A. Authority for all sources located in the State of Maine subject to the following Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of October 7, 1975: fossil fuel-fired steam generators; incinerators (except for cone burners serving populations of less than 25,000); portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; and sewage treatment plants.

B. Authority for all sources located in the State of Maine subject to the following National Emission Standards for Hazardous Air Pollutants as promulgated in 40 CFR Part 61 as of October 7, 1975: asbestos with the exception of asbestos resulting from demolition (40 CFR 61.22(d)); beryllium; and mercury.

This delegation is based upon the following conditions:

1. The DEP will continue to submit semi-annual reports as required to EPA.

2. Enforcement of the NSPS and NESHAPS in the State of Maine will be the primary responsibility of the DEP. If the DEP determines that such enforcement is not feasible and so notifies EPA, or where the DEP acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to Section 113 of the Clean Air Act, as amended, with respect to sources within the State of Maine subject to the NSPS and NESHAPS.

3. Acceptance of this delegation of enumerated presently promulgated NSPS and NESHAPS does not commit the State of Maine DEP to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of October 15, 1975, and for any standard which is revised subsequent to October 7, 1975.

4. Upon approval of the Regional Administrator of Region I, the Commissioner, Maine DEP, may subdelegate his authority to implement and enforce the NSPS and NESHAPS to air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

5. The DEP will at no time grant a variance or waiver from compliance with applicable NSPS and NESHAPS (40 CFR Parts 60 and 61). Should the DEP grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to Section 113 of the Clean Air Act. The granting of such relief by the DEP shall also constitute grounds for revocation of the delegation by EPA.

6. The delegation to the State of Maine does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal Facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. The DEP and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the current compliance status of subject sources in the State of Maine and regarding interpretation of applicable regulations. EPA will make determinations regarding unique questions of applicability of delegated standards when requested by the DEP or at other times as determined by EPA. EPA will provide technical assistance as necessary to the DEP. The DEP will provide the following information, as a minimum, to EPA: the name and address of each facility, the compliance status of each facility with accompanying explanations of non-compliance where applicable, notice of enforcement actions brought against facilities subject to delegated NSPS and NESHAPS, surveillance actions undertaken for each facility, and the results of all reports relating to emission data.

8. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Parts 60 or 61), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

9. The DEP will utilize the methods specified in 40 CFR Parts 60 and 61 in performing source tests pursuant to the regulations.

10. If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS or NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEP.

A Notice announcing this delegation will be published in the *Federal Register* in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located in the State of Maine should be submitted to the Department of Environmental Protection Office at the State House, Augusta, Maine 04330. Any such reports which have been or may be received by EPA, Region I, will be promptly transmitted to the Department of Environmental Protection.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

JOHN A. S. MCGLENNON,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Commissioner Adams on November 3, 1975, that authority to implement and enforce specified Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants was delegated to the State of Maine Department of Environmental Protection.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region I Office, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

Effective immediately, all reports required pursuant to the National Emission Standards for Hazardous Air Pollutants and the Standards of Performance for New Stationary Sources listed in the above letter should be submitted to the EPA, Region I Office and should also be submitted to the State Agency at the following address: Maine Department of Environmental Protection, State House, Augusta, Maine 04330.

This notice is issued under the authority of Sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-6 and 7.

Dated: December 17, 1975.

JOHN A. S. MCGLENNON,
Regional Administrator.

[FR Doc.75-35063 Filed 12-29-75;8:45 am]

[OPP-42012; FRL 474-8]

STATE OF NEW JERSEY

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 [39 FR 36446 (Oct. 9, 1974) and 40 FR 11698 (March 12, 1975)], the Honorable Brendan T. Byrne, Governor of the State of New Jersey has submitted a State Plan for Certification of Pesticide Applicators to the Environmental Protection Agency (EPA).

Notice is hereby given of the intention of the Regional Administrator, EPA Region II, to approve this plan on a contingency basis pending approval of implementing regulations.

A summary of this plan follows. The entire plan, together with all attached appendices, may be examined during normal business hours at the following locations:

New Jersey Department of Environmental Protection, Division of Environmental Quality, Office of Pesticide Control, 380 Scotch Road, West Trenton, New Jersey 08628, tel. (609) 292-5890.

Environmental Protection Agency, Region II, Environmental Programs Division, Pesticides Branch, Room 907, 26 Federal Plaza, New York, New York 10007, tel. (212) 264–8358.

Federal Register Section, Technical Services Division, (WH-569), Office of Pesticide Programs, Room 401, East Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, tel. (202) 755–4854.

SUMMARY OF NEW JERSEY STATE PLAN

The New Jersey Department of Environmental Protection (NJDEP) has been designated as the State lead agency for the administration of the pesticide applicator certification program, with the Office of Pesticide Control in the Division of Environmental Quality responsible for the program's implementation. The New Jersey Cooperative Extension Service (NJCES) is a cooperating agency having overall responsibility for the Statewide pesticide applicator certification training program.

Legal authority for the program is contained in the New Jersey Economic Poison Act N.J.S.A. 4:8A–1 et seq.; New Jersey Pesticide Control Act N.J.S.A. 13:1F–1 et seq.; Emergency Containment and Disposal of Pesticides N.J.A.C. 7:1–2.4; Pesticide Control Regulations N.J.A.C. 7:30–1 and Proposed Pesticide Applicator Regulations.

The plan indicates that the State lead agency and the cooperating agency have or will have sufficient qualified personnel and funds necessary to carry out the proposed program. The Office of Pesticide Control has a budget of $135,000 for fiscal year 1976.

The State lead agency will submit an annual report to EPA in January of each year and special reports to meet specific needs.

The State estimates that 5,000 commercial applicators and 15,000 private applicators will need to be certified. Wallet size identification cards containing all necessary information will be furnished to all certified and registered applicators, to be presented to dealers at the time of restricted use pesticide purchase.

The commercial applicator categories proposed are those which are listed in 40 CFR 171.3. An additional major category is proposed for Aerial Applicators.

The State of New Jersey plans to conduct training programs for commercial applicators covering the Federal standards contained in 40 CFR 171. These standards are set forth in detail in the Northeast Pesticide Coordinators' Pesticide Applicator Core Training Manual to be used for core training, and in specific category/subcategory training materials to be developed by EPA and modified to reflect conditions in New Jersey. Training will be offered by the NJCES county agents and specialists and additionally by trade and professional associations, community colleges, etc. Two written examinations are required: one covering the general or "core" material, and other covering the specific requirements of the category or subcategory. Examinations will be given by the NJDEP within the training module as well as separately at regularly scheduled intervals. Information about the courses and examination times may be obtained from the NJCES county agent or the NJDEP's Office of Pesticide Contol. Commercial applicators must be certified to use both general and restricted use pesticides.

The New Jersey State plan provides for private applicator categories. The categories proposed are as follows:

1. Field and Forage
2. Fruit
3. Vegetable
4. Greenhouse and Florist
5. Nursery, Ornamental and Turf
6. Livestock and Poultry

The State of New Jersey plants to conduct training programs for private applicators covering the Federal standards contained in 40 CFR 171. These standards are set forth in detail in the Northeast Pesticide Coordinators' Pesticide Applicator Core Training Manual to be used in core training, and in NJCES publications for categories. Training will be offered on a county basis conducted by NJCES county agents. A two part written examination is required: the first part covering the general or "core" material, and the second part covering the specific requirements of the category. Examinations will be given within the training module as well as separately at regularly scheduled intervals.

Those persons who wish to be certified as a private pesticide applicator who cannot read or write will be offered specialized training by a recognized training person or a public employee. Certification will be limited to the pesticide products on particular sites for which the individual has demonstrated competency.

While training before initial certification is not mandatory, all commercial and private applicators will be strongly encouraged to attend the sessions. Core study questions for private and commercial applicators to be provided as part of the Northeast Pesticide Coordinators' Pesticide Applicator Core Training Manual are attached to the plan. Study questions on all categories will be developed and submitted at a later date.

The State of New Jersey certification program will require that all commercial applicators attend at least three (3) approved training courses within a five (5) year period or take a recertification examination. Private applicators will be required to attend three (3) approved training courses within a six (6) year period or take a recertification exam.

The New Jersey State Plan also indicates that within sixty (60) days of the final approval of the Government Agency Plan (GAP) by EPA, a statement concerning acceptance of GAP qualified Federal employees will be forwarded for inclusion in the State plan.

Reciprocal agreements may be made with any other States which have substantially the same standards; however, knowledge of applicable New Jersey laws and regulations and registration of the certified applicator will be required.

Other regulatory activities shown in the State plan are State registration of all pesticide products and inspection and sampling of pesticide products. All pesticide dealers of restricted use pesticides are required to be registered by the State. Additionally, pesticides are classified as prohibited and restricted.

Enforcement will be carried out by inspectors who will spot check commercial and private applicators to ensure that they comply with State and Federal laws and regulations. They will perform regular inspections and follow-up reports of suspected violations.

PUBLIC COMMENT

Interested persons are invited to submit written comments on the proposed State plan for the State of New Jersey to the Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007. The comments must be received on or before January 29, 1975, and bear the identifying notation OPP–42012. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: November 24, 1975.

GERALD M. HANSLER,
P.E., Regional Administrator,
U.S. Environmental Protection Agency, Region II.

[FR Doc.75-35069 Filed 12-29-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

DOMESTIC LAND MOBILE RADIO ADVISORY COMMITTEE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Meeting

DECEMBER 19, 1975.

The next meeting of the Common Carrier Domestic Land Mobile Radio Advisory Committee in preparation for the 1979 World Administrative Radio Conference will be held on Wednesday, January 21, 1976, at 10:00 a.m. in Room 752, 1919 M Street, N.W., Washington, D.C. The same room will be available in the afternoon for task group meetings.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance to the agenda upon recognition by the Chairman.

The meeting will be conducted in accordance with the following agenda:

1. Committee Chairman's opening remarks.
2. Reports from Chairmen of Fact-Finding Task Groups.
3. Discussion of preliminary draft of spectrum requirements.
4. Establish timetable for submission of work.
5. Set date for next meeting.
6. Further business.
7. Adjournment

No part of this meeting will be concerned with matters which are within the exemptions of the Public Information Act, 5 U.S.C. 55 s(b).

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-34834 Filed 12-29-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs/Special Impact Advisory Committee will meet Thursday, January 15, 1976, at 9 a.m., Room 5041B, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to provide the Federal Energy Administration with diversified information possessed by a wide range of highly qualified individuals who have been extensively involved in planning, development, and implementation of programs to remedy the problems of the consumer, the poor, the elderly, and the handicapped persons in rural and urban America.

The agenda for the meeting is as follows:

1. Old Business—Procedural Issues.
2. New Business—Utility Issues—Pricing—State and Local Programs to Alleviate Adverse Impacts of High Energy Costs on the Poor—Economics of Nuclear vs. Solar Energy.
Consumer Participation Issues—White House Conference on Consumer Representation
Impact of Energy Policies on the Cities—Energy Conservation
Social Relief Programs—Federal Programs to Alleviate the Adverse Impacts of Rising Energy Costs on Low and Moderate Income Groups
3. Presentations by Top Officials from HUD, HEW, CSA, AOA, ACTION, and Labor

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on December 22, 1975.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.75-34962 Filed 12-23-75;10:23 am]

STATE REGULATORY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the State Regulatory Advisory Committee will meet Friday, January 16, 1976, at 10 a.m., Room 5041B, 12th & Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to provide the Federal Energy Administration with advice and information concerning its plans and programs which are related to the responsibilities of State regulatory commissions.

The agenda for the meeting is as follows:

1. Public Affairs Presentation—Two Years After the Embargo.
2. Status of PIES Modeling and Energy Projections for the Next 10 Years.
3. Environmental Restrictions (Clean Air Act Amendments, etc.).
4. Presentation on the Energy Independence Authority (EIA).
5. Establishment of a Subcommittee to Review Legislation.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202) 961-7022, at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C., on December 23, 1975.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.75-34961 Filed 12-23-75;10:24 am]

FEDERAL ELECTION COMMISSION

[Notice 1975-99]

CLEARINGHOUSE ON ELECTION ADMINISTRATION CLEARINGHOUSE ADVISORY COMMITTEE

Hearing

In accordance with the Clearinghouse Advisory Panel Charter approved by the Federal Election Commission on November 25, 1975, and in the spirit of the Federal Advisory Committee Act (Pub. L. 92-463), the Commission announces the following panel meeting:

Name: Federal Election Commission Clearinghouse Advisory Panel.
Date: 6-7 January 1976.
Place: Mount Vernon Room, Sheraton-Carlton Hotel, 16th and K Streets, N.W., Washington, D.C.
Time: 0900-1200; 1400-1630 on 6 January 1976; 0900-1200; 1400-1630 on 7 January 1976.
Proposed Agenda: Discussion sessions addressing research priorities, topics and projects in election administration including: Planning and management; registration; balloting; tabulation and records.
Purpose of the meeting: The Panel will review past Clearinghouse research efforts, discuss present problems in the administration of federal elections, and formulate recommendations to the Federal Election Commission Clearinghouse for its future research program.

The Advisory Panel meeting is open to the public depending on available space. Any member of the public may file a written statement with the Panel before, during, or after the meeting. To the extent that time permits, the Panel Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Panel should be addressed to Dr. Gary Greenhalgh, Clearinghouse on Election Administration, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

Dated: December 22, 1975.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.75-34955 Filed 12-29-75;8:45 am]

FEDERAL MARITIME COMMISSION

[Agreement No. 10123]

AMERICAN EXPORT LINES, ET AL.

Intention to Conditionally Approve

Agreement No. 10123 (Agreement) has been filed with the Commission for approval by five of the six common carrier members of the Calcutta, East Coast of India and Bangladesh/U.S.A. Conference (Conference). The five participating lines are American Export Lines (AEL), Cunard-Brocklebank Ltd. (CB), the Scindia Steamship Navigation Co. (Scindia), the Shipping Corporation of India, Ltd. (SCI), and Waterman Isthmian (Waterman). Hellenic Lines (Hellenic), the sixth Conference member has protested the Agreement and requested a hearing on the matter.

Essentially, Agreement No. 10123 is a revenue pooling arrangement applicable to revenues earned by the participating lines from the transportation of cargoes from the Calcutta port area (the India Section) and ports of Bangladesh (the Bangladesh Section) to the United States Atlantic and Gulf ports. While a revenue pool, it is the intent of the participants that each of the participating lines shall carry sufficient cargo to earn its pool share or "basic entitlement". There is a prescribed penalty for deliberate over and under carriage, and adjustments in accounts will be made for unintentional over and under carriage. The activities of each of the two Sections is monitored by separate General Committees both of which are domiciled in the Bay of Bengal area and are responsible to the New York Governing Committee. The primary function of the General Committee is to make continuing assessments of trade

conditions in order to determine whether the services offered by the participating lines are adequate, excessive, or insufficient for the trade's needs, and to insure that each line is meeting its obligations arising from the participation in the pool. In appropriate circumstances, the Committees are authorized to "request" of the individual lines that they adjust their service offerings, schedules and/or itineraries to accommodate the trade or to insure that their cargo liftings approximate their "basic entitlement." While this arrangement falls short of full authority to rationalize services, it is recognized that the scheme of "basic entitlement" serves as an enforcing mechanism of sorts and that any line may ignore the service request of any Committee only at the risk of possible, eventual, disadvantage, particularly if it is determined that the line involved has deliberately over or under-carried its pool share.

The "basic entitlements" are set forth in Article 4 of the Agreement. In the India Section, AEL has been allocated a 19.857 percent share; Waterman, 23 percent; Scindia and SCI, 21.4258 percent each; and CB a 14.285 percent share. In the Bengladesh Section, AEL has been allocated a 20.4 percent share; Waterman, 31.2 percent; Scindia and SCI, 9.69 percent each; and CB a 29.02 percent share.

Agreement No. 10123 was filed with the Commission on April 5, 1974. Pursuant to notice appearing in the FEDERAL REGISTER of April 17, 1974, protests and requests for hearing were received of Hellenic, the Tea Association of the U.S.A. and the International Association of Great Lakes Ports (Great Lakes Ports). The protest of the Great Lakes Ports was withdrawn after a reassessment of their position resulted in a determination that they would not be adversely affected by the Agreement. The protest of the Tea Association of the U.S.A. was withdrawn after a negotiation with the pool lines resulted in an agreement that revenues derived with the trades of tea would be excluded from those revenues pooled and shared.

Basically, Hellenic contends (1) that pool shares based solely on national flag interests, as these allegedly are, are discriminatory between carriers within the meaning, and in contravention of, section 15 of the Shipping Act, 1916; (2) that the Agreement is "fatally incomplete" and that the quantum of service to be offered the trade was not clearly set forth, and that the basic entitlement of each line had not been established; (3) that, in certain respects, the pool may be modified without the Commission's approval as is required by section 15 of the Act; (4) that the rationalization authority conferred upon the General Committees would allow a restriction of services to U.S. ports in violation of section 205 of the Merchant Marine Act, 1936; (5) that some of the provisions of the Agreement are impracticable in application thus raising the question as to whether the Agreement is "workable and whether it can fulfill the salutary functions envisaged by section 15"; and (6) that the pool's proponents have failed to demonstrate those serious transportation needs which would serve to justify approval of the Agreement in order to secure important public benefits or to further valid regulatory purposes; and (7) that administrative approval of Agreement No. 10123 is legally impermissible and a full hearing is mandatory.

Agreement No. 10123 was revised on February 2, 1975 by the fixing, for the first time, the percentages of the pool for the members. The proponents then filed with the Commission and served Hellenic with a "Comment and Reply to Protest" and a "Statement of Justification" in support of approval of the pool, both dated June 9, 1975. Subsequently, on August 15, 1975, proponents filed with the Commission and supplied Hellenic, a table of sailings, payable tons and revenues contrasting the figures for the years 1969 and the projected figures for 1975. A letter in argument for approval was also filed by proponents on September 11, 1975.

Hellenic filed a reply to the arguments of the proponents dated September 19, 1975, in which it restated its arguments outlined in the protest and for the first time attempted to specify the nature and potential harm that the pool would have on the service of Hellenic.

The proponents of the Agreement filed, on October 8, 1975, a letter in reply to Hellenic's reply of September 25, 1975. Agreement No. 10123 was also modified on October 8, 1975, by the addition of tea to the excluded commodities list. On October 19, 1975, Hellenic filed the Conference cargo carrying statistics for 1974. On the same day the Conference supplied their cargo carrying statistics for the years 1970–74 and the first 8 months in 1975 (statistics which we assume are also known to Hellenic). The result of the filing of the protest, reply, and numerous cross replies has been to focus the issues and allow the Commission to determine that the objections raised by Hellenic either involve legal issues, which may be disposed of presently, or are in other respects insufficient. We will deal with Hellenic's protests in the order in which they were raised.

Hellenic alleges that the pool shares are based on national flag interests and therefore discriminating. The real point of contention is the pool share offered to Hellenic. The pool has offered Hellenic a 12.5% share of the India Section and a 22.5% share of the Bangladesh Section. Hellenic demands a 18% share of the India Section a 25% share of the Bangladesh Section. The proponents of the pool argue the reasonableness of their offer by pointing to the carrying of Hellenic in the year 1973 when Hellenic carried 9.26% of the India Section and 14.18% of the Bangladesh. Hellenic counters with an argument that 1973 was an unrepresentative year because of widespread rebating and point to 1974 when they carried 19.7% in the India trade and 23.72% in the Bengladesh trade. Reliance, however, on individual years can be misleading. We have therefore looked at the carrying statistics for the past five and two-third years. We find that in 1971 and 1974 Hellenic's carryings exceeded the offer by the proponents but in 1970, 1973, and 1975 they fell below the offer made by the proponents. Averaging the last five and three-quarter years we find that Hellenic has carried 14.7% of the cargo in the India Section and 15.4% of the cargo in the Bangladesh Section. Since the offer made by the pool proponents averages out to a 16.67% share of both trades, we consider the pool line's offer of March 1975 emminently fair. Furthermore, the contention that Hellenic's pool shares are based solely on national flag interests is unsubstantiated since Hellenic's share appears to be based on its past carryings. Accordingly, we would condition approval of Agreement No. 10123 on the pool lines maintaining an offer of a one-sixth share the first two years of the five year period of approval. Additionally, the one-sixth share shall not be subject to reduction during the five year period of approval we are willing to grant here.

Hellenic next contends that Agreement No. 10123 is fatally incomplete and in reality is simply an agreement to agree. Quite to the contrary, Agreement No. 10123 is as complete and certain as is practicable under the circumstances of the trade. The "basic entitlements" have been established, and filed, although they were not at the time of the initial filing and publication. The quantum of service is not set forth because the pool lines do not know, with any precision, what is required. The carryings of jute carpet backing and burlap have declined considerably since 1968 and the proponents are uncertain if this decline will continue. The result is that the pool lines can do no more than establish certain guidelines (as set forth in exhibits A and B appended to the Agreement) for the General Committees as to what they consider the quantum minimum and maximum of adequate service required to meet the trades' requirements. In the interest of operational flexibilities it is only fair that the pool lines be allowed to assess their operational needs on a continuing basis. The Agreement therefore establishes adequate boundaries for delineating the activities which may take place under the Agreement and the Commission will keep constant supervision over those activities. Furthermore, the Commission will require, as a condition of approval, that all modifications of the provisions of the Agreement, which require further agreement of the parties, be submitted to the Commission for approval prior to their implementation. With the imposition of this condition the further argument of Hellenic that the Agreement unlawfully reserves power to amend without subsequent Commission approval is rendered moot.

Hellenic's concern that Agreement No. 10123 would, if approved, violate section 205 of the Merchant Marine Act of 1936, is likewise obviated by the pool lines proposal that their Agreement be modified to specifically provide that any carrier may call at any U.S. port it desires to

without running the risk of being judged a deliberate over or under carrier. Thus, we are imposing such a provision as a condition of approval.

Another contention advanced by Hellenic is that the Agreement is unworkable and impractical in application. In this regard Hellenic specified eight particular objections. However, these objections amount to mere supposition and speculation and none of them involve allegations of any violation of the Shipping Act. Mere speculation and supposition are not probative to the ultimate determination of approvability under section 15 of this Agreement and are clearly insufficient in and of themselves to warrant sending the matter to a possible protracted and expensive hearing.

Hellenic has also alleged that it will suffer harm by virtue of "increased, more effective and virulent competition" stemming primarily from the rationalization aspects of the scheme which will result in Hellenic "competing against a monolithic sailing effort of five carriers geared to loading all cargoes in the trade," or, in the maritime vernacular, a "blanketing of the berth." Hellenic's allegations are therefore speculations of increased competition but do not specify how this increased competition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or contrary to the public interest, or to be in violation of the Shipping Act.

The proponents have distinctly outlined the transportation need which they feel justify the approval of the Agreement. They state that the Bay of Bengal trade is very unattractive. Four third-flag carriers have abandoned the trade in the past ten years and a fifth sold its name and good will to Waterman. They site formidable navigational, climatic, and operational difficulties plus socio-economic conditions which have inhibited the introduction of modern shipping technology and techniques. The Bay of Bengal trade is one of the ever diminishing number of trades where relatively obsolete and breakbulk liner vessels can be usefully employed. These factors combined with the length of the voyage make operating efficiencies very difficult to achieve. According to the proponents, approximately 83 percent of the cargo moving in the two trades is jute products for which the average revenue, per measurement ton, amounts to about $40, a return less than the level the conference believes it requires. They argue that the establishment of an adequate rate would be met with strong objections from the shippers of jute products who are constantly concerned with the price competition afforded by synthetic manufacturers in the United States. In this regard, we are advised that the jute market has declined in recent years because of a falling off in demand and if the jute products shippers are not price competitive then the carriers will have still less to carry. Proponents state:

> At the same time costs have been rising at a rapid pace and a point has now been reached where if rates are to be kept anywhere near current levels, some efficiencies have to be achieved. As all of the lines are long-time carriers of these products, they have reached a maximum point of self-efficiency from which little or no progress is possible.

Simply stated, the proponent's assertion is that pooling and sailing coordination is necessary to reduce costs, which are necessary to maintain low rates, which are necessary to maintain jute carryings, which are necessary to keep the lines in business.

Hellenic neither denies the transportation need nor challenges any of the justifying facts. In light of the fact that Hellenic was the original proponent of the pool and that the Commission staff has been advised during a meeting with all the members of the Conference, including Hellenic, that the only reason Hellenic is not participating in the pool is because of a squabble over the amount of the pool shares, Hellenic's protests regarding the transportation need of the pool does not appear to be substantive. Furthermore, we believe a transportation need has been shown which would justify approval of the Agreement in the absence of countervailing facts.

Hellenic has, to date, simply not met the requirements set forth in the Notice of Agreements Filed setting forth the requirements for persons desiring a hearing. Those requirements are:

> 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.

Since these requirements were not met, we therefore find that there is presently no justification for hearings on the proposed Agreement and the Commission hereby gives notice of its intention to conditionally approve Agreement No. 10123 unless Hellenic or any other interested person is able to come forward with a clear concise statement of material matters upon which he desires to adduce evidence and a statement of facts which, if so adduced, would result in disapproval.

Furthermore, the Commission intends to condition its approval upon:

(1) The Agreement being modified to reflect that (a) any changes in the list of the categories of cargoes and revenues excluded from pooling and sharing, (b) any reallocations of basic entitlements, (c) any changes in geographical scope of the Agreement, (d) any changes in voting procedures, and (e) any changes in the terms of default and penalty will be filed with the Commission for approval under Section 15 of the Act. Additionally, the Agreement must reflect that the foregoing list does not preclude the Commission from requiring that any other matter agreed upon by the lines must be filed with the Commission for its approval, where so required.

(2) The Agreement being modified to reflect that any carrier may call at any U.S. port it so desires without being adjudged a deliberate over or under-carrier.

(3) The Agreement being modified to reflect that (a) minutes of meetings of the New York Governing Committee be filed with the Commission, and (b) that a copy of the end year accountings circulated to the lines, be furnished the Commission whether approved by the lines or not. If the accounting is in dispute, the Commission shall be furnished with a statement as to the nature and basis of disagreement.

(4) The Agreement being modified to reflect that Hellenic will be offered a one-sixth share of the trade, not subject to reduction during the term of approval, and that this offer is nonrescindable during the first two years of approval.

Any person submitting a statement as to why Agreement No. 10123, as modified as indicated herein, should not be approved, should submit such matter on or before January 15, 1976.

Therefore *it is ordered*, That a copy of this Notice of Intention to Approve be published in the FEDERAL REGISTER and a copy thereof be mailed to all carriers named in the initial paragraph of this notice.

By the Commission, December 18, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34892 Filed 12-29-75;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Aeromar:
Ruth H. Skinner d/b/a 107 Camp Street, New Orleans, Louisiana 70130.

Vertex Air Freight Corporation:
P.O. Box 480217, Miami, Florida 33148 Officers: Mario Madrigal, President/Treasurer, Edith Madrigal, Secretary.

Western Traffic Service:
Winston Arthur Hollard d/b/a 9580 W. 14th Street, Lakewood, Colorado 80215.

IES, Inc.:
3640 Cargo Road,

Vandalia, Ohio 45377.
Officers:
Donald E. Ewert, Secretary,
Larry A. Freshwater, President,
Charles F. McCann, Vice President,
Bernard L. McDonel, Treasurer.
Horizon Air Freight, Inc.:
152-15 Rockaway Boulevard,
Jamaica, New York 11434.
Officers:
Anthony Leondis, Chairman of the Board,
John Leondis, President,
Agnes Leondis, Secretary/Treasurer.
Barinco International Corp.:
9841 Airport Boulevard,
Los Angeles, California 90009.
Officers:
Gerald Papkoff, President,
Barbara Papkoff, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: December 22, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34890 Filed 12-29-75;8:45 am]

MEDITERRANEAN-U.S.A. GREAT LAKES WESTBOUND FREIGHT CONFERENCE

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, NW., 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 January 19, 1976. 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:

Stanley O. Sher, Esquire,
Billig, Sher & Jones, P. C.,
Suite 300,
1126 Sixteenth Street, N.W.,
Washington, D.C. 20036.

Agreement No. 8260-17 among the members of the above named conference, provides for substituted service by water or land during periods when the St. Lawrence Seaway is impassable.

By order of the Federal Maritime Commission.

Dated: December 22, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34893 Filed 12-29-75;8:45 am]

NORTH ATLANTIC UNITED KINGDOM FREIGHT CONFERENCE

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, NW., 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 January 19, 1976. 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:

Howard A. Levy, Esquire,
Suite 727,
17 Battery Place,
New York, New York 10004.

Agreement No. 7100-20, among the members of the North Atlantic United Kingdom Freight Conference, deletes the present Article XIV of the basic agreement and substitutes in lieu thereof a new Article XIV setting forth voting rules and procedures.

By order of the Federal Maritime Commission.

Dated: December 18, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34887 Filed 12-29-75;8:45 am]

[Docket No. 75-60]

RICO LINES, INC.

Proposed ILA Rules on Containers; Order of Investigation and Suspension

On November 19, 1975, Rico Lines, Inc. (RICO) filed Initial tariffs with this Commission which are scheduled to become effective on December 26, 1975. Rico's Tariff FMC-F No. 1 establishes commodity rates and Rico's FMC-F No. 2 is a rules publication. Both tariffs are applicable between the ports of Camden and Norfolk and ports in Puerto Rico. Rules 900, 910 and 920 of FMC-F No. 1 set forth the same International Longshoremen's Association Rules On Containers which are set forth in the tariff of the Puerto Rico Maritime Shipping Authority (PRMSA).

PRMSA's tariff Rules were placed under investigation and suspension by the Commission's Order of September 13, 1974 instituting Docket No. 74-40, Puerto Rico Maritime Shipping Authority-Proposed ILA Rules On Containers and consolidating that proceeding with Docket No. 73-17, Sea-Land Service, Inc. and Gulf Puerto Rico Lines, Inc., Proposed Rules on Containers, wherein the Commission suspended and placed under investigation similar tariff rules.

The rules set forth in Rico's tariff are derived from collective bargaining agreements with the International Longshoremen's Association, (AFL-CIO). Generally, the rules substantially provide that, at Atlantic Coast Ports, consolidators (including Non-Vessel Operating Common Carriers) who operate facilities within 50 miles of a port will be furnished no containers, and that any container which may come from them shall be stripped at the pier and the cargo placed into another container. At all ports, the Rules would permit the carrier to collect from the shipper any fines or liquidated damages assessed against the carrier for violations of the rules on Containers, if the violations were caused by evasion, subterfuge, oversight or other action by the shipper.

Item 15940 of Rico's Tariff FMC-F No. 1 sets forth the rate for (Southbound) Freight-All-Kinds (FAK), a rate which consolidators utilize. Note 7 to Item 15940 provides that when the carrier is required by a collective bargaining agreement to strip and stuff, a shipper may bring his FAK cargo to the pier, in his own trailer, where it will be placed into the carrier's container, or vice versa, for a fee, depending upon the size of the container, and that the shipper will then obtain the FAK rate.

Upon consideration of the tariff matter discussed above, and in view of the action taken by the Commission in Docket No. 73-17, Sea-Land Service, Inc., and Gulf Puerto Rico Lines, Inc., Proposed Rules on Containers and Docket No. 74-40, Puerto Rico Maritime Shipping Authority—Proposed ILA Rules on Containers, the Commission is of the opinion that the tariff matter should be suspended and made the subject of a

public investigation and hearing to determine whether it is unjust, unreasonable or otherwise unlawful under Sections 14 Fourth, 16 First and/or 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing;

Therefore, *it is ordered*, That pursuant to sections 18(a) and 22 of the Shipping Act, 1916 and sections 3 and 4 of the Intercoastal Shipping Act, 1933 an investigation is hereby instituted into rules 900, 910 and 920 and Note 7 to Item 15940 of Rico's Tariff FMC–F No. 1 to determine whether the matters set forth therein are unjust, unreasonable or unreasonable or otherwise unlawful within the meaning of those sections. If the matter hereby placed under investigation is further changed, amended, or reissued, such changes are hereby ordered to be made a part of this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Rules 900, 910, and 920, and Note 7 to Item 15940 of Rico's Tariff FMC–F No. 1 are hereby suspended and the use thereof deferred to and including April 25, 1976, unless otherwise ordered by the Commission, and that during this period of suspension Rico shall take no action, either directly or indirectly to effectuate these tariff matters.

It is further ordered, That Rico shall immediately file with this Commission a consecutively numbered supplement to its aforementioned Tariff which supplement shall bear no effective date, shall fully reproduce this order, and shall state that the subject tariff matter has been suspended and may not be used until April 26, 1976, unless otherwise ordered by the Commission;

It is further ordered, That pursuant to section 14 Fourth of the Shipping Act, 1916, a determination shall be made as to whether Rule 900 of Rico's Tariff FMC–F No. 1 would permit the carrier to unfairly treat or unjustly discriminate against a class of shippers in the matter of cargo space accommodations or other facilities within the meaning of that section;

It is further ordered, That pursuant to section 16 First of the Shipping Act, 1916, a determination shall be made as to whether Rico either alone, or in conjunction with the International Longshoremen's Association (AFL–CIO) is proposing to subject certain consolidators, or certain consolidated cargo to undue or unreasonable prejudice or disadvantage within the meaning of that section;

It is further ordered, That Rico Lines, Inc. be named as respondent herein;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of this Commission's Office of Administrative Law Judges and that the hearing(s) be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing shall commence no later than March 22, 1976;

It is further ordered, That (I) a copy of this order be served upon the respondent herein, and upon the Commission's Bureau of Hearing Counsel, and published in the FEDERAL REGISTER; and (II) the respondent and Hearing Counsel be duly served with notice of time and place of the hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(l) of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties of this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34891 Filed 12-29-75;8:45 am]

UNITED STATES LINES, INC. AND SAIPAN SHIPPING CO., INC.

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, NW., 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 January 19, 1976. 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:

Joseph J. Fanelli, Division Manager,
Pricing & Conference Affairs,
United States Lines, Inc.
1579 Middle Harbor Road,
Oakland, California 94607.

Agreement No. 10210, a cooperative working arrangement entered into between United States Lines, Inc. (U.S. Lines) and Saipan Shipping Company, Inc. (Saipan), provides for the lease of U.S. Lines' containers and other container equipment, including chassis, by Saipan in the trade between Guam, Mariana Islands, and foreign destinations, in accordance with the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: December 22, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34888 Filed 12-29-75;8:45 am]

UNITED STATES LINES INC. AND PALAU SHIPPING CO., INC.

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 January 19, 1976. 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:

Joseph J. Fanelli, Division Manager, Pricing & Conference Affairs, United States Lines, Inc., 1579 Middle Harbor Road, Oakland, California 94607.

Agreement No. 10211, a cooperative working arrangement entered into between United States Lines, Inc. (U.S. Lines) and Palau Shipping Company, Inc. (Palau), provides for the lease of U.S. Lines' containers and other container equipment, including chassis, by Palau in the trade between Guam, Mariana Islands and foreign destinations, in accordance with the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: December 22, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-34889 Filed 12-29-75;8:45 am]

FEDERAL POWER COMMISSION

[CP73-47, CP73-88, CP73-132, CP73-148, CP73-230, and CP74-122]

EASCOGAS LNG, INC., ET AL.

Notice of Availability of Supplement to Final Environmental Impact Statement

DECEMBER 30, 1975.

Notice is hereby given in the above dockets, that on December 30, 1975, as required by Section 2.82(b) of Commission Order No. 415-C, a Supplement to a Final Environmental Impact Statement, prepared by the staff of the Federal Power Commission was made available. The Final Environmental Impact Statement (FEIS), circulated on July 5, 1974, deals with the applications filed by Eascogas LNG, Inc., Distrigas Corporation, Distrigas Pipeline Corporation, and Distrigas of New York Corporation in Docket Nos. CP73-47, CP73-88, CP73-132, CP73-148, CP73-230, and CP74-122 for a certificate of public convenience and necessity under Sections 3 and 7(c) of the Natural Gas Act requesting authorization for the importation of liquefied natural gas (LNG) from Algeria; for the construction and operation of 1) an LNG importation terminal at Staten Island, New York, and 2) approximately 6,000 feet of 24-inch transmission line with a 2,675-foot segment of 30-inch underwater pipeline loop in the Arthur Kill between Staten Island, New York and the shore of New Jersey; and for the sale in interstate commerce of the imported LNG. During the course of FPC hearings concerning the FEIS, the staff became aware of a possible inaccuracy in the report, and advised the record that a Supplement to the FEIS might be required. Also, since the circulation date, additional information has been received by the FPC regarding the proposed project and additional studies concerning possible vapor cloud travel resulting from a massive spill of LNG on water have been completed by the FPC staff, which update the former studies attached in Volume 2 of the FEIS. A Supplement to the FEIS reflecting this additional information and updating of the vapor travel analysis was circulated for comments on July 15, 1975, to Federal, state, and local agencies, and all parties to the proceedings.

At the end of the 45-day comment period for the Supplement to the FEIS, eight letters of comment were received from reivewing agencies. These letters of comment, along with staff responses to each comment, are attached to the Supplement to the FEIS as Appendix 1.

The FEIS and Supplement to the FEIS have been placed in the public files of the Commission, and are available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., 20426 and at its regional office located at 26 Federal Plaza, 22nd Floor, New York, New York 10007. Copies of the Supplement to the FEIS are available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-34872 Filed 12-29-75;8:45 am]

FEDERAL RESERVE SYSTEM

CATOCTIN TRUST CO.

Order Approving Application for Merger of Banks

Before the Federal Reserve Bank of Richmond acting under delegated authority from the Board of Governors of the Federal Reserve System.

Catoctin Trust Company, Thurmont, Maryland (Catoctin), an organizing state bank which has applied for membership in the Federal Reserve System, has applied to the Board of Governors of the Federal Reserve System for prior approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) to merge with The Thurmont Bank, Thurmont, Maryland (Thurmont), a member state bank of the Federal Reserve System, the resulting bank to operate under the charter of Catoctin and with the name of The Thurmont Bank. The application is to be acted upon by the Federal Reserve Bank of Richmond (Reserve Bank) under authority delegated by the Board of Governors (12 C.F.R. 265).

As required by the Bank Merger Act, notice of the proposed merger, in form approved by the Board of Governors, has been published and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Reserve Bank has considered the application and all comments and reports received in light of the factors set forth in the Act.

On the basis of the record in this case, the application is approved for the reasons summarized in the Reserve Bank's Order of this date relating to the application of Suburban Bancorporation to acquire the successor by merger to The Thurmont Bank. The transaction shall not to be consummated (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 of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 18, 1975.

ROBERT P. BLACK,
President.

[FR Doc.75-35031 Filed 12-29-75;8:45 am]

FIRST NATIONAL HOLDING CORP.

Order Approving Acquisition of First Atlanta Life Insurance Company

First National Holding Corp., Atlanta, Georgia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under Section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of First Atlanta Life Insurance Company ("Company"), Phoenix, Arizona, a company that will engage *de novo* in the activity of underwriting, as reinsurer, credit life and credit disability (accident and health) insurance directly related to extensions of credit by Applicant's consumer finance subsidiary, Gulf Finance Corporation of Mississippi ("Gulf Finance"). Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FEDERAL REGISTER 49153 (1975)). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including comments submitted by Sidney L. Moore, Esq., Decatur, Georgia, in the light of the public interest factors set forth in Section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the second largest banking organization in Georgia, controls one subsidiary bank with deposits of approximately $1.4 billion, representing about 11.3 percent of the total deposits in commercial banks in the State.[1] Applicant also engages in consumer finance activities through its nonbank subsidiary, Gulf Finance, which operates offices in the States of Alabama, Georgia, Indiana, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, under the names of its various subsidiary companies.

Company's activities will be limited to acting as reinsurer of credit life and credit disability insurance directly related to extensions of credit by Gulf Finance. Company, which will be formed as an Arizona insurance corporation, will be qualified to underwrite insurance directly only in Arizona. Accordingly, the insurance sold by Applicant's subsidiaries will be directly underwritten by an unaffiliated insurance company qualified to do business in each of the respective States where offices of Applicant's consumer finance subsidiary are located, and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since this proposal involves a *de novo* acquisition, consummation of the transaction would not have any adverse effects on existing or potential competition in any relevant market.

[1] All banking data are as of June 30, 1975.

Credit life and credit disability insurance are generally made available by banks and other lenders and are designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10) n. 7)

Applicant has stated that following consummation of the acquisition, Company will offer at reduced premiums the several types of credit insurance policies that it will reinsure. Since the insurance will be sold in each of the eight States in which Gulf Finance operates, Company's proposed rate reductions vary according to the various maximum rates permitted to be charged in each respective State. Thus, Applicant's proposal involves rate reductions for reducing term credit life insurance at premium rates ranging from 4.6 per cent to 15.0 per cent below the rates presently charged in the respective States, and rate reductions for level term credit life insurance on single payment loans also ranging from 4.6 per cent to 15.0 per cent below the premiums presently charged in the respective States. Applicant further proposes to reduce the premium its lending subsidiary charges for credit disability insurance by 5.0 per cent in each State. The Board is of the view that these reductions in insurance premiums that Applicant proposes to establish are in the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under Section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not 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 Atlanta pursuant to authority hereby delegated.

By order of the Board of Governors,[3] effective December 19, 1975.

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

[FR Doc.75-35032 Filed 12-29-75;8:45 am]

[3] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns.

MELLON NATIONAL CORP.

Order Amending Requirement for Divestiture of Ownership of Certain Real Estate in Connection With the Retention of Assets of Allomon Corporation

By Order of December 20, 1974, the Board approved an application of Mellon National Corporation, Pittsburgh, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, to retain the assets of Allomon Corporation, McKees Rocks, Pennsylvania, and its subsidiaries. The Board's Order required divestiture by November 28, 1975, of certain real property held by two of Allomon Corporation's subsidiaries, 3826 Euclid Avenue Corporation and Clark Development Company, both of Cleveland, Ohio. Applicant has divested all the property required to be divested except an office building owned by 3826 Euclid Avenue Corporation.

By letter dated November 7, 1975, Applicant requested that the Board grant an extension during which time the remaining property could be divested. Applicant, since 1972, has endeavored to sell the property.

The Board has concluded that the request should be granted. Accordingly, the Board's Order of December 20, 1974, is hereby amended to authorize retention of the remaining real estate subject to the condition that Applicant divest such real property at the earliest possible date, but in no event later than November 28, 1976.

By order of the Board of Governors,[1] effective December 17, 1975.

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

[FR Doc.75-35033 Filed 12-29-75;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governor Wallich.

ROXTON BANCSHARES, INC.

Formation of Bank Holding Company

Roxton Bancshares, Inc., Roxton, Texas, 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 100 percent of the voting shares (less directors' qualifying shares) of First National Bank, Roxton, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than January 15, 1976.

Board of Governors of the Federal Reserve System, December 16, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-35034 Filed 12-29-75;8:45 am]

SUBURBAN BANCORP.

Order Approving Acquisition of Bank

Before the Federal Reserve Bank of Richmond acting under delegated authority from the Board of Governors of the Federal Reserve System.

Suburban Bancorporation, Hyattsville, Maryland (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval under Section 3(a)(3) of the Act (12 U.S.C. 1842 (a)(3)) to acquire 100 percent of the voting shares of the successor by merger to The Thurmont Bank, Thurmont, Maryland (Bank). The bank into which Bank is to be merged is an organizing state bank and has no significance expect as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the 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, was given in accordance with Section 3(b) of the Act and the time for filing all comments and views has expired. The Reserve Bank has considered the application and all comments received in the light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the fourth largest banking organization in Maryland through its control of Suburban Trust Company. The latter, as of June 30, 1975, operated 55 banking offices and held total deposits of approximately $770 million. The deposits represent 9 percent of the state's total commercial bank deposits. Consummation of the proposed transaction would not alter its relative position in the state or increase Applicant's share of state deposits by any significant amount.

Bank operates three offices in Frederick County, Maryland, and one in the eastern portion of Washington County immediately across the Frederick line. Based on comparative data of June, 1974, it ranked fifth among 12 competing banks in Frederick County (5.4 percent of county deposits) and eleventh among 11 competing banks in Washington County (1.2 percent of county deposits). As of June 30, 1975, Bank had total deposits of approximately $20 million.

Applicant's banking subsidiary, Suburban Trust, has no offices in either Frederick County, Bank's primary banking market, or in Washington County. (Its closest office is in the Ger-

mantown-Gaithersburg area of Montgomery County approximately 20 miles from Bank's Frederick branch.) Thus, it appears that there is no substantial existing competition between Applicant and Bank, nor does it appear that the proposed acquisition would have an adverse effect on potential competition. Furthermore, population per banking office in Bank's market is substantially less than the state average. Therefore, prospects for *de novo* entry do not seem favorable. Accordingly, the Reserve Bank concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary bank and Bank are regarded as satisfactory and these considerations are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend weight toward approval since Applicant's acquisition of Bank will enable it to offer trust services and larger loans through participations. It is the Reserve Bank's judgment that the proposed acquisition would be in the public interest and that the application may be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (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 of Governors of the Federal Reserve System or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Federal Reserve Bank of Richmond, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective December 18, 1975.

ROBERT P. BLACK,
President.

[FR Doc.75-35035 Filed 12-29-75;8:45 am]

FEDERAL RECURRING PAYMENTS

Delivery to Financial Institutions

On June 10, 1975, the Board of Governors of the Federal Reserve System requested comments regarding use of Federal Reserve facilities for clearing and settling of payment instruments evidenced by information contained in magnetic tape and other media (40 FR 25641). The proposal pertained to the delivery of items to institutions belonging to private associations exchanging such payments instruments as well as the program of the United States Department of the Treasury involving the processing of "Federal recurring payments." (See 40 FR 47492 for an explanation of the Treasury's program.) The Federal Reserve Banks are acting as fiscal agents of the Treasury Department for the recurring payments program and the Board of Governors, after review of all comments received, has adopted interim guidelines for the delivery of such recurring payments under the Treasury Department's program by the Federal Reserve Banks.

The Board believes its interim position is cost-effective operationally feasible, and affords all financial institutions a number of options for receiving payments on an equitable basis. From the comments received and reviewed by the Board regarding its June 10th proposal, a clear majority of each class of all financial institutions favored the proposal on delivery of payments in the form adopted by the Board. Federal Reserve Bank representatives will, of course, be able to discuss features of this proposal further with individual institutions.

The interim guidelines announced today may be modified in the future to conform to the position finally adopted by the Board on sending and receiving commercial payments on magnetic tape. The Federal Reserve is currently in the process of reviewing the comments received on its June 10, 1975, proposal. It should be recognized also that the findings and recommendations of the National Commission on Electronic Fund Transfers could call for some further modification in these interim guidelines.

The guidelines adopted by the Board provide for the delivery of Federal recurring payments by Federal Reserve Banks in the following fashion:

(1) Payments to beneficiaries maintaining accounts at a financial institution offering demand deposit accounts may be delivered directly to that institution in the same manner that checks are presented.

(2) Payments to beneficiaries maintaining accounts at a financial organization not offering demand deposit accounts may be delivered directly to that institution provided such institution receives sufficient volume of such payments to warrant separate delivery and is located on an existing check courier route.

(3) Payments may be delivered to a data processing service bureau provided the service bureau receives sufficient volume of such payments to warrant separate delivery and is located on an existing check courier route.

(4) Any financial organization may pick up payments at the local Federal Reserve office provided that volume is sufficient to warrant the separate sort required.

(5) Any financial organization may have payments delivered to an endpoint that currently receives checks directly from the Federal Reserve office (i.e., the pass-through method).

(6) Payments may be mailed to any financial organization by the Federal Reserve regardless of its location.

Board of Governors of the Federal Reserve System, December 18, 1975.

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

[FR Doc.75-35036 Filed 12-29-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARTISTS-IN-SCHOOLS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Artists-In-Schools Advisory Panel to the National Council on the Arts will be held on January 21-22, 1975 from 9:00 a.m.-5:00 p.m., in the first floor conference room of the Shoreham Building, 806 15th Street NW., Washington, D.C.

All of this meeting will be open to the public on January 21-22, 1975 from 9:00 a.m.-5:00 p.m. on a space available basis. Accommodations are limited. There will be a discussion of Program and administrative policy questions and of Guidelines.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, Nation Foundation on the Arts and the Humanities.

[FR Doc.34952 Filed 12-29-75;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

Meeting

The Chairman's Task Force on the National Labor Relations Board will hold open meetings at 9:00 a.m. on Tuesday, January 6, 1976, and at 9:00 a.m. on Wednesday, January 7, 1976, in the Board hearing room and other offices of the agency located at 1717 Pennsylvania Avenue NW., Washington, D.C.

The Task Force agenda for January 6 will consist of organization of the Task Force and briefings on Agency operations. The agenda for the second day of the meeting will consist of continued briefings on agency operations, subcommittee meetings and reports.

Requests for further information on the meeting should be addressed to Mr. Earl D. Proctor, Secretary for the Task Force. He may be reached by telephone on (202) 254-8047. Any member of the public will be permitted to file a written statement specifically on the National Labor Relations Board Rules and Regulations with the Task Force.

Dated this 22nd day of December 1975 in Washington, D.C.

[SEAL] JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.75-34954 Filed 12-29-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP ON ANTICIPATED ADVANCES IN SCIENCE AND TECHNOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Group on Anticipated Advances in Science and Technology.

Date: January 14, 1976.

Time: 9 a.m. to 4 p.m.

Place: Rm. 2008, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C.

Type of meeting: Part Open—Closed (9 a.m. to 12 noon). Open (1 p.m. to 4 p.m.).

Contact person: Mr. William Montgomery, Special Assistant, Science and Technology Policy Office, National Science Foundation, Washington, D.C. 20550, telephone 202/632-8914. Anyone who plans to attend the open portion of the meeting should contact Mr. Montgomery by January 10, 1976.

Summary minutes: (Open Portion) May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory group: To provide advice on developments that may take place in science and engineering and examine the national policy implications of these developments. This group will consider these subjects in a manner which will facilitate the planning for the proposed Office of Science and Technology Policy.

Tentative agenda: 9 a.m. to 12 noon—Closed. Briefings and discussions of interagency documents which treat possible program and budget initiatives involving several agencies of the Executive Branch.

1 p.m. to 4 p.m.—Open.

1:00—Earthquake and Natural Hazard Prediction and Warning.

2:30—Committee Discussion of Future Agenda Items and Issues.

4:00—Adjourn.

Reason for closing: The Group will be reviewing and discussing interagency documents which treat possible program and budget initiatives involving several agencies in the Executive Branch.

Authority for closing: The Director of the National Science Foundation determined on December 15, 1975, that the portion of the meeting dealing with interagency documents is within exemption 5 of Section 552(b), 5 U.S. Code, and should, therefore, be closed to the public.

GAIL A. MCHENRY,
Acting Committee Management Officer.

DECEMBER 23, 1975.

[FR Doc.75-35018 Filed 12-29-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Issuance of Amendment To Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-26 issued to Consolidated Edison Company of New York, Inc. which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2, located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

In accordance with the licensee's application for a license amendment, dated July 23, 1975, the amendment modifies the Technical Specifications by providing additional conditions for the storage of the spent fuel. The amendment also permits modification of the spent fuel element storage pool in order to provide for additional storage capacity for spent fuel in accordance with the licensee's proposal dated March 4, 1975, as supplemented on May 9, July 23, August 19, September 11, October 1, and October 10, 1975.

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on October 10, 1975 (40 FR 47839). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated July 23, 1975, and proposal to modify spent fuel pool dated March 4, 1975, as supplemented May 9, July 23, August 19, September 11, October 1, and October 10, 1975, (2) Amendment No. 14 to License No. DPR-26, with Change No. 11, (3) the Commission's related Safety Evaluation, (4) the Commission's Negative Declaration dated December 16, 1975, which is being published concurrently with this notice, and (5) the Commission's associated Environmental Impact Appraisal. 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 Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16th day of December, 1975.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Reactor Licensing.

[FR Doc.75-34924 Filed 12-29-75;8:45 am]

[Docket No. 50-247; License No. DPR-26]

INDIAN POINT NUCLEAR GENERATING PLANT UNIT NO. 2; CONSOLIDATED EDISON COMPANY OF NEW YORK

Negative Declaration Supporting a Proposed Expansion in Storage Capacity of the Spent Fuel Etorage Pool and Associated Change to the Technical Specifi-

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the licensee's proposed modification to the Indian Point Unit No. 2 spent fuel storage pool (SFP) under Operating License No. DPR-26. This modification and associated change to the Technical Specifications would authorize the expansion of the SFP storage capacity 83 percent. This expansion would permit the storage of an additional 218 spent fuel assemblies, increasing the ultimate capacity of the SFP from the 264 to 482 assemblies. The modification will require the replacement of the present 10 fuel storage racks with 10 new racks designed to permit the storage of additional fuel assemblies. It will not involve any SFP external construction nor alter the external physical geometry of the pool or require fuel pool cleanup system modifications.

The Commission's Division of Reactor Licensing has prepared an environmental impact appraisal for this proposed modification to the SFP. Within the context of this appraisal, the Staff applied, weighed, and balanced the five factors specified by the Commission in its issuance of FEDERAL REGISTER notice (FR 42801) dated September 16, 1975, regarding handling and storage of spent fuel from light water power reactors. On the basis of this environmental impact appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because, pursuant to the Commission's regulations in 10 CFR Part 51 and the Council of Environmental Quality's Guidelines, 40 CFR 1500.6, the Commission has determined that this proposed amendment will not significantly affect the quality of the human environment.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

Dated at Rockville, Maryland, this 16th day of December, 1975.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Environmental Projects Branch No. 1, Division of Reactor Licensing.

[FR Doc.75-34925 Filed 12-19-75;8:45 am]

[Docket Nos. 50-3 and 50-247]

INDIAN POINT NUCLEAR GENERATING UNITS NOS. 1 AND 2; CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Issuance of License Amendments

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the

Commission) has issued Amendment No. 11 to Provisional Operating License No. DPR–5 for Indian Point Nuclear Generating Unit No. 1, and Amendment No. 15 to Facility Operating License No. DPR–26 for Indian Point Nuclear Generating Unit No. 2, to Consolidated Edison Company of New York, Inc. Both units are located in Westchester County, State of New York. The amendments are effective as of their date of issuance.

The amendments involve administrative changes in reporting requirements to be consistent with NRC guidelines. The reporting requirements in Appendix B have been separated from those required for Appendix A Technical Specifications and involve, in some cases, semi-annual reporting and, in others, annual reporting. Editorial corrections and changes resulting from the reorganization which created the Nuclear Regulatory Commission have also been made.

The application for amendments 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 amendments. Prior public notice of these amendments is not required since the amendments do not involve significant hazards considerations.

Since there will be no change in effluent types or total amounts nor an increase in power level and will not result in any significant impact, we have concluded, pursuant to 10 CFR 51.5(d)(4), that an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to these actions, see: (1) the application for the amendments dated August 29, 1975; (2) Amendment No. 11 to License No. DPR–5 with its attachment, Change No. 67, and (3) Amendment No. 15 to License No. DPR–26 with its attachment, Change No. 12.

All of the above items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548. Copies are also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, New York 12207, and the Tri-State Regional Planning Commission, 100 Church Street, New York, New York 10007.

A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Acting Director, Division of Reactor Licensing.

Dated at Rockville, Maryland, this 16th day of December, 1975.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Reactor Licensing.

[FR Doc.75-34926 Filed 12-29-75;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO.; OGLETHORPE ELECTRIC MEMBERSHIP CORP.

Issuance of Amendment To Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR–57 issued to Georgia Power Company and Oglethorpe Electric Membership Corporation, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment modifies those portions of the license and the Technical Specifications which relate to the receipt, possession and use of byproduct, source, and special nuclear material.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 14, 1975, (2) Amendment No. 25 to License No. DPR–57, with Change No. 24 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 Appling County Public Library, Parker Street, Baxley, Georgia 31513.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 16 day of December, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-34927 Filed 12-29-75;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF—1 issued to Portland General Electric Company, The City of Eugene, Oregon, Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant, located on the Columbia River in Columbia County, Oregon. The amendment is effective as of its date of issuance.

This amendment provides for periodic inspection of steam generator tubes using eddy current testing methods, for use of all volatile treatment (AVT) to control secondary water chemistry, additional bases for limitation of primary-to-secondary leakage and a program to develop specific secondary water chemistry operating limits.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact not previously evaluated in the full-power operating license review and that pursuant to 10 CFR 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment, dated December 16, 1975; (2) Amendment No. 3 to License No. NPF–1; 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 Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97501.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 19th day of December, 1975.

For the Nuclear Regulatory Commission.

WALTER R. BUTLER,
Light Water Reactors Branch 1–2, Division of Reactor Licensing.

[FR Doc.75-34928 Filed 12-29-75;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO.

Issuance of Amendment To Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-1 issued to Portland General Electric Company, The City of Eugene, Oregon, Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant, located on the west shore of the Columbia River in Columbia County, Oregon. The amendment is effective as of November 26, 1975.

The amendment permits use of the auxiliary hoist on the manipulator crane, in conjunction with a load indicator, for movement of control rods within the reactor pressure vessel in order to enable verification of clearance between the control rods and the control rod guides located in the upper internals.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated November 25, 1975, (2) Amendment No. 1 to License No. NPF-1, with Change No. 1 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 local public document room in the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97501.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 17th day of December, 1975.

For the Nuclear Regulatory Commission.

WALTER R. BUTLER,
Chief, Light Water Reactors Branch 1-2, Division of Reactor Licensing

[FR Doc.75-34929 Filed 12-29-75;8:45 am]

[Docket Nos. STN 50-483; STN 50-486]

UNION ELECTRIC CO. (CALLAWAY PLANT, UNITS 1 AND 2)

Order For Hearing

The Atomic Safety and Licensing Board has been informed that the parties will be ready to adduce further evidence on January 29 and 30, 1976.

Wherefore, *it is ordered*, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Nuclear Regulatory Commission, that an evidentiary session in this proceeding shall convene at 9 a.m. on Thursday, January 29, 1976, in Courtroom C, First Floor, U.S. District Court, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri 63101.

Issued: December 19, 1975, Bethesda, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.75-34930 Filed 12-29-75;8:45 am]

[Docket Nos.: 50-338 and 50-339]

VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Order Rescinding Suspension of Certain Construction Activities

On February 4, 1972, the Director of Regulation of the Atomic Energy Commission issued an order suspending construction activities involving the offsite portions of the transmission lines from the North Anna Power Station, Units 1 and 2, pending completion of the Commission's review of such activities pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Commission's regulations, 10 CFR Part 50, Appendix D. Three 500-kV transmission lines were proposed as a part of Units 1 and 2 and were affected by this order. They are known as the North Anna-Ladysmith transmission line, the North Anna-Morrisville transmission line, and the North Anna-Midlothian transmission line.

Due to the applicant's need for additional transmission capacity to carry electrical energy to the site for plant construction requirements, the AEC Regulatory staff completed its review of the North Anna-Ladysmith line prior to the remainder of the review of Units 1 and 2. The Director of Regulation then made a determination that offsite construction activities related to this line should no longer be suspended pending completion of the full NEPA review and issued an order to this effect on September 29, 1972. The North Anna-Ladysmith line was then constructed and is now complete. However, suspension of such activities relative to the two other 500-kV transmission lines from Units 1 and 2 remained in effect.

The AEC Directorate of Licensing issued its Final Environmental Statement in April 1973 "relative to the continuation of construction and the operation of Units 1 and 2 and the construction of Units 3 and 4." In this statement the Regulatory staff reviewed and found acceptable these facilities, including all three transmission lines from North Anna Units 1 and 2 and a fourth 500-kV transmission line which is to be constructed from North Anna to Possum Point as a part of Units 3 and 4.

Pursuant to the Commission's Regulations in 10 CFR Part 50, Appendix D, Section B, on December 19, 1972, a Notice of Hearing was published (37 FR 28313, December 22, 1972). The notice provided that a hearing was to be held to determine whether the construction permits for North Anna Units 1 and 2 should be terminated, continued, or modified, or conditioned for the protection of the environment. In response to that Notice, intervention was requested, and granted, respecting the routing of Applicant's proposed North Anna-to-Morrisville line. In August 1974, a hearing was held in accordance with the Notice. By agreement of all parties—the staff, the Applicant, and Intervenors—the presiding Atomic Safety and Licensing Board postponed consideration of the contested North Anna-Morrisville transmission line. The Board did consider the North Anna-Ladysmith line and the North Anna-Midlothian line and concluded that adverse environmental impacts of these two transmission lines "can be expected to be small." The Board issued an order dated October 31, 1974, which authorized the Director of Regulation to rescind his Order of February 4, 1972, suspending work on the Applicant's North Anna-Midlothian line, subject to the conditions set forth in Section VIII of the Board's Partial Initial Decision dated October 31, 1974. The Director of Nuclear Reactor Regulation rescinded the suspension in an order dated August 4, 1975.

On May 15, 1975 the State Corporation Commission of Virginia issued a certificate of public convenience and necessity for the North Anna-Morrisville line. In September 1975 a hearing was held to consider the contested North Anna-Morrisville line. Upon conclusion of the hearing and after consideration of the record, the Board issued its initial Decision dated December 5, 1975. That decision authorized the Director of Nuclear Reactor Regulation to rescind his Order of February 4, 1972 suspending work on the applicant's North Anna-Morrisville line, subject to the conditions set forth in Paragraph 38 of the decision.

It is therefore ordered, that the suspension of construction activities related to the North Anna-Morrisville 500-kV transmission line is lifted, subject to the following conditions:

1. The Applicant's clearance of right-of-way shall be limited to 150 feet, which is the width necessary for construction of a 500-kV line, until such time as construction of the projected 230-kV line has received the necessary State approvals.

2. The Applicant shall maintain the right-of-way through the Rappahannock Wildlife Management Area in such a manner as to optimize the "edge effect," minimize the visual impact of the line, and be satisfactory to the Virginia Commmission of Game and Inland Fisheries.

3. The Applicant shall, in traversing the Rapidan and Rappahannock Rivers, do a minimum of clearing of the right-of-way and utilize such other measures as are practical to minimize the visual impact of the line.

It is further ordered, That in accordance with the Atomic Safety and Licensing Board's Partial Initial Decision of October 30, 1974, the following additional conditions shall also apply:

1. The applicant shall endeavor to minimize the impacts of the transmission lines to be constructed from the Station and to include the following procedures.

(i) Retain and augment as necessary the vegetation at road and river crossings, homesites and major water bodies to screen the transmission lines.

(ii) Change the alignment of transmission lines on both sides of major road crossings where vegetation will be inadequate to avoid long views down the right-of-way.

(iii) Place the tower structures along the lower slopes in hilly terrain, rather than on the commonly visible high points, unless a long span is necessary that cannot otherwise be reasonably accomplished.

(iv) Control the application of herbicides to rights-of-way so as to prevent drift and apply no herbicides on rights-of-way over pasture, cropland and irrigation ditches or near water bodies, homes and recreation areas.

2. A control program shall be established by the Applicant to provide a periodic review of all construction activities to assure that those activities conform with the environmental conditions set forth in the construction permit.

3. Before engaging in a construction activity which may result in a significant adverse environmental impact that was not evaluated in the Environmental Statement, the Applicant shall provide written notification to the Division of Reactor Licensing.

4. If unexpected harmful effects or evidence of irreversible damage are detected during facility construction, the Applicant shall provide an acceptable analysis of the problem and a plan of action to eliminate or significantly reduce these harmful effects or this damage.

Dated at Bethesda, Maryland this 19th day of December, 1975.

For the Nuclear Regulatory Commission.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor of Regulation.

[FR Doc.75-34931 Filed 12-29-75;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

HEARINGS

The Privacy Protection Study Commission will hold public hearings between 10:00 a.m. and 5:30 p.m. on February 11 and 12, 1976, in Room 305, 26 Federal Plaza, New York, New York. The principal topic of these hearings will be the record-keeping practices of credit-card issuers and other related record-keeping activities, including travel, hotel and entertainment systems, that may have the capacity to generate information about the movements, purchases, associations, and lifestyle of individual consumers. To assist in the development of this topic, the Commission wishes to learn about the experiences and views of interested parties, including members of the public, prior to the hearings. These contributions should be made in writing to the Executive Director, Privacy Protection Study Commission, Suite 424, 2120 L Street, N.W., Washington, D.C. 20506, and should be received in the Commission offices *no later than January 16, 1976.*

The number of credit cards held by consumers, the frequency and varied purposes of their use, and the evolving structure of transaction-based consumer services, make the record-keeping systems that support the use of credit cards a potentially extensive collection of information about identifiable individuals. Under authority of the Privacy Act of 1974, 5 U.S.C. 552a, the Commission will consider whether the principles and requirements of the Privacy Act of 1974 should be extended to these systems.

The Commission is particularly interested in views from the public concerning their experiences with credit-card and reservation systems. In addition, the Commission seeks information, views, comments as to the following: (i) the uses that credit-card and reservation systems make of individually identifiable information about consumers, including the type and form of information collected, the purposes for collection, and the sources from which the information is obtained or verified; (ii) the impact of new services and technologies, including arrangements for point-of-sale debiting of checking and savings accounts; (iii) the organizations to which information on card holders is provided in connection with maintaining accounts and otherwise; (iv) policies and procedures for governmental access and incentives for denial of access or cooperation with governmental agencies and any experiences in this regard; (v) the legal and operational relationships among credit-card issuers, reservation systems, and credit-reporting and consumer investigative agencies; and (vi) the desirability and feasibility of applying the principles and requirements of the Privacy Act of 1974 to credit-card issuers and reservation systems.

The Commission also requests information from and views of governmental agencies which either regulate the activities of card issuers or use the information that card issuers and reservation systems maintain on individual consumers. The Commission intends to examine the experiences of Federal and State regulators in connection with the Fair Credit Billing Act, the Fair Credit Reporting Act, and related statutes. The Commission also seeks to ascertain the practices of governmental agencies as users of credit-card information, which would include the purposes for which such information is obtained, the purposes for which it is used, the methods of access, the appropriateness and feasibility of prior notification to consumers and the effect(s) of denying governmental agencies of access to the records on individuals maintained by credit-card and reservation systems.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

[FR Doc.75-35061 Filed 12-29-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11937; File No. SR-MSTC-75-4]

MIDWEST SECURITIES TRUST COMPANY

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 24, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change.

DEPOSITORY INPUT SATELLITE SYSTEM

Midwest Securities Trust Company ("MSTC") proposes to operate a system for the central handling of securities pursuant to which participants may from time-to-time deposit securities with MSTC. As part of its continuing effort to modernize the handling of securities, MSTC has developed a Depository Input Satellite System (DIS). Banks throughout the country would consent via agreement to act as agents of MSTC on the terms and conditions set forth in the agreement between themselves and MSTC in receiving deposits of securities as a custodian bank within the definitions set forth in the Uniform Commercial Code and consistent with the regulations of the Securities and Exchange Commission adopted pursuant to the Securities Exchange Act of 1934, for the securities deposited, for the period during which such securities remain within its custody or control.

The bank shall accept on behalf of MSTC securities tendered for deposit during the banks' regular business hours by Participants of MSTC provided that such securities are accompanied by:

(a) properly prepared delivery tickets in the form prescribed by MSTC; and,

(b) in good deliverable form (in accordance with the Rules of the Midwest Stock Exchange, Inc. and such additional requirements at MSTC may prescribe from time-to-time), with the appointment of Kray & Co. (or such other nominee as MSTC may from time-to-time specify) as attorney for the transfer thereof.

If there are any discrepancies between the securities tendered by the MSTC Participant and the attached delivery tickets, or omissions in the delivery tickets, or if the securities are not in good deliverable form, the bank shall not accept the delivery until the discrepancies, omissions, or defects are corrected.

STATEMENT OF BASIS AND PURPOSE

The DIS arrangement would allow banks to confirm via telecopier to MSTC that a MSTC Participant has in fact delivered securities to it, thereby allowing MSTC, upon receipt of said confirmation, to properly credit the account of the delivering broker, a day in advance of the actual physical delivery of said securities from the custodian bank to MSTC.

The Depository Input Satellite would contain the following procedures and safeguards:

1. MSTC participants may deliver securities during the DIS's normal business hours.

2. MSTC deposits received by the DIS before 11 a.m., Chicago time will be credited to the participant's account on the day of the delivery. Discretion should be used by the DIS, if participant calls and asks for a 5 minute extension of the cut-off for the same day credit.

3. DIS personnel will perform the following verification checks on the delivery ticket:

a. MSTC participant symbol (verification list enclosed).

b. DIS symbol.

c. Delivery date-date received at DIS.

d. Quantity-total shares specified must agree with the total shares submitted. The total share quantity must also correspond to a summation of the individual denominations appearing on the Depository Delivery Ticket.

e. Cusip number—must be compared against MSTC eligible securities list enclosed.

f. Security description-agrees with the description shown on all securities attached.

g. Denominations.

h. Type of delivery.

i. Value-value of deposit.

4. All securities must be verified to insure they constitute "good delivery."

A. Determine if the stock is registered in the name of an individual, partnership, or brokerage firm.

1. If the stock is registered in the name of an individual, the signature (on the back) must be exactly the same as on the front of the certificates and the signature must be guaranteed by a national bank or broker.

i. If the signature is not exactly the same, there must be a valid "one and the same guarantee."

ii. If the signature is not exactly the same, and there is not a valid one and the same guarantee, prepare a reclamation ticket for the certificate(s).

iii. If there is no valid signature guarantee, prepare a reclamation ticket for the certificate(s).

iv. If a small (not nationally recognized) bank has guaranteed the signature, a brokerage firm must reguarantee the signature.

v. If a small (not nationally recognized) bank has guaranteed the signature, and a brokerage firm has not reguaranteed the signature, prepare a reclamation ticket for the certificate(s).

2. If the stock is registered in the name of a partner, any of the partners can sign the certificate, stating that he is a partner. There must be a partnership guarantee by the broker as well as a signature guarantee by a broker or national bank.

i. If there is no valid partnership guarantee, prepare a reclamation ticket for the certificate(s).

ii. If there is no valid signature guarantee, prepare a reclamation ticket for the certificate(s).

iii. If a small (not nationally recognized) bank has guaranteed the signature, a brokerage firm must reguarantee the signature.

iv. If a small (not nationally recognized) bank has reguaranteed the signature and a brokerage firm has not reguaranteed the signature, prepare a reclamation ticket for the certificate(s).

3. If the stock is registered in the name of a brokerage firm, the certificates must be signed by an authorized signature or stamped with a firm stamp. If there is no authorized signature or firm stamp, a reclamation ticket for the certificate(s) is prepared.

B. Check for a power of attorney release. There must be a power of attorney release for each appointment (except Kray & Co.). This can be done manually or by machine. A stapled power of attorney release is acceptable. If there is not a valid power of attorney release for each appointment (except Kray & Co.), a reclamattion ticket for the certificate(s) is prepared.

C. Check that the assignment space is blank.

1. If the space is not blank, the information must be crossed out and the erasure guaranteed by the appropriate member.

2. If the space is not blank and the information is not crossed out or the erasure not guaranteed, prepare a reclamation ticket for the certificate(s).

3. If the stock has an individual's name in the assignment space, there must be a stock power signed by the individual instead of an erasure guarantee.

i. If a stock power is used, it must contain the following information:

a. Security denomination.

b. Security name (not mandatory).

c. Certificate number (not mandatory).

d. Signature of individual.

e. Signature of guarantee.

f. Power of attorney release (if needed).

ii. If the stock power does not contain the necessary information in (i), prepare a reclamation ticket for the certificate(s).

iii. If there is more than one certificate per stock power, prepare a reclamation ticket for the certificate(s).

D. Certain legal items are accepted; namely, (1) dated trusts and under agreement and (2) *under the will* of requires a situs stamp. All other legal items should be reclaimed.

5. DIS will receive daily from MSTC a list of securities that will not be processed for dividend protection in the MSTC system. If the security delivered to the DIS is listed on the cut-off date list, then the DIS personnel should reclaim the security to the firm stating MSTC cannot guarantee dividend protection. No delivery can be accepted by the DIS if the delivery date is the MSTC cut-off date because MSTC will not be able to guarantee dividend protection to the MSTC participant.

6. If one of the several certificates are not in "good delivery form," then the DIS clerk should reclaim only the bad certificate and correct the total shares and denominations on the delivery ticket.

7. The delivery ticket broker receipt copy can be receipted by the DIS clerk prior to verification of the delivery ticket and certificates.

8. In the event that such verification indicates uncorrectable discrepancies, then a uniform reclamation form should be completed by DIS personnel and returned to the participant for correction.

9. DIS will post all acceptable input received to the MSTC-DIS Control Sheet and transmit the document via a facsimile reproduction machine during the morning, but no later than 11 a.m. Chicago time to MSTC Controls Department. Transmission to MSTC-Chicago may be made as often as necessary during the morning to avoid skewing the workload. The information must be posted:

a. Date of Tranmsission.

b. Satellite Location.

c. Authorized Signature.

d. Transmission Time.

e. Delivery Tape.

f. MSTC Participant's Symbol.

g. Total shares.

h. Cusip Number.

i. Security Description.

j. Satellite Location Symbol.

k. Sequential Control Number (DIS Ignores).

l. Denominations.

m. Deposit Shipment Value.

10. All securities accepted by the DIS on behalf of MSTC shall be retained in safekeeping by the DIS, with delivery tickets used, and segregated from securities held by the DIS for the accounts of others, until forwarded to MSTC in accordance with number 10 of the Safeguards and Procedures. The securities held by the DIS overnight shall be retained in the DIS's vault. DIS acknowledges in its agreement with MSTC that securities placed within its custody or control pursuant to said agreement shall not be subject to any right, charge, security interest, lien or claim of any kind in favor of the DIS or any person claiming through the DIS, and that the DIS shall have no legal or equitable right, claim or interest in or to such securities.

Upon transmission of DTS Control Sheets, MSTC controls clerk batches DIS Control Sheet for keypunch, retaining one copy for the Controls Department files, forwards one copy to MSTC Keypunch Department and forwards one copy to MSTC Distribution Department.

12. Upon receipt of DIS Control Sheet, MSTC Keypunch Department inputs into computer the total number of shares as evidenced by the transmissions deposited by a participant and credited to the account of said participant.

13. Controls Department prepares box updates as to the total number of shares reflected on the DIS Control Sheet.

14. DIS personnel will forward MSTC deposit tickets and certificates, and the MSTC-DTS Control Sheets via Brink's air courier each day. The package will be addressed to MSTC Security Processing Area. MSTC will promptly advise DIS of any discrepancies after receipt.

15. Upon receipt by MSTC, the Distribution Department compares the DTS Control Sheet with the actual physical delivery. Securities received are filmed with deposit tickets, DIS Control Sheets and Brink's delivery packing slips. The MSTC Distribution Department notifies the Controls Department and the Keypunch Department as to the actual physical denominations of the deposited securities, wherein any discrepancies as to total number of shares are noted.

Comments have neither been solicited nor received regarding the proopsed rule change.

The Midwest Securities Trust Company believes no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether

the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 20, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 18, 1975.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.75-34853 Filed 12-29-75;8:45 am]

[Release No. 34-11909; File No. SR-NYSE-75-11]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations *

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Act of June 4, 1975, Pub. L. No. 94-29, § 16, 84 Stat. 147, notice is hereby given that on November 6, 1975, the above-mentioned self-regulatory organization ("the Exchange") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

In order for the Exchange to comply with the Securities Acts Amendments of 1975, which, among other things, require national securities exchanges to enforce compliance by its members and persons associated with its members with all the provisions of the Securities Exchange Act of 1934, the rules thereunder and the rules of the Exchange, the Board has approved proposed amendments to Rules 325, 313.11, 313.12, 313.22, 320(f), 321.34, 322.10, 324.24, 326, 327 (to be rescinded), 420 and 431 which will enable the Exchange to regulate and enforce the capital requirements of members, member organizations and brokers and dealers who are associated with members or member organizations who are subject to Exchange regulation under the Securities Exchange Act of 1934 and particularly Rule 15c3-1 [17 CFR § 240.15c3-1] adopted pursuant to section 15(c)(3) of that Act.

A summary of the terms and substance of the proposed rule changes follows.

RULE 325 CAPITAL REQUIREMENTS

Rescind the existing Rule 325 and adopt a proposed Rule 325 which is entirely new and incorporates the SEC's uniform net capital rule by reference. It does not prescribe higher net capital minimum dollar amount requirements but makes clear (proposed Rule 325(d)) that the Exchange may at any time or from time to time prescribe greater net capital or net worth requirements including more stringent treatment of items in computing net capital or net worth. It also retains a differentiation in capital treatment of long over-the-counter put and call options endorsed by members from those by non-members, and a provision related to the net capital treatment of securities subject to special initial margin requirements. The text of proposed Rule 325 is as follows.

RULE 325

(a) Each member or member organization subject to Rule 15c3-1 promulgated under the Securities Exchange Act of 1934 shall comply with the capital requirements prescribed therein and with the additional requirements of this Rule 325.

(b) Each member or member organization subject to this Rule shall forthwith notify the Exchange if his or its net capital after deduction of all capital withdrawals including maturities, if any scheduled during the next six months, falls below the pertinent percentage indicated below:

1. If the net capital minimum dollar amount requirement is applicable—150 percent thereof or some greater percentage as may from time to time be designated by the Exchange, or

2. If the ratio of aggregate indebtedness to net capital is applicable-10 percent of aggregate indebtedness, or

3. If the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under Securities and Exchange Commission Rule 15c3-3 is applicable 7 percent of the aggregate debit items thereunder.

(c)(1) In computing net capital, a long put option or a long call option which is not an obligation of a clearing agency registered under the Securities Exchange Act of 1934 or has not been endorsed or guaranteed by a member organization shall have no value and shall not operate to increase net capital under any provision of this Rule.

(2) In the case of member organizations whose trading shows a pattern of purchasing and selling the same listed stock on the same day, (or all member organizations when so designated by the Exchange), during the period in which any special margin requirement is in effect, any new proprietary transaction of members or member organizations resulting in a long or short position, shall, notwithstanding any other provision of this Rule, be treated as a "contractual commitment" from the trade date to the settlement date and shall be subject to a charge to net capital of the same percentage as specified in the special margin requirement, excepting in the case of the specialist in that stock or of others who at the request of a Floor Official have participated in a difficult market situation.

(d) The Exchange may at any time or from time to time with respect to a particular member or member organization or all members or member organizations or a new member or member organization prescribe greater net capital or net worth requirements than those prescribed under this Rule including more stringent treatment of items in computing net capital or net worth.

RULE 313 (SUBMISSION OF PARTNERSHIP ARTICLES—SUBMISSION OF CORPORATE DOCUMENTS)

.11 Requires that partnership articles include certain provisions relating to the withdrawal of capital and notices to be given the Exchange regarding such withdrawals.

The proposed amendment deletes provisions which will be replaced by Rule 15c3-1 [17 CFR § 240.15c3-1] and adds a reference to Rule 15c3-1 [17 CFR § 240.15c3-1]. In addition, the amendment changes a reference to Rule 325.20(5) which under another part of this proposal will be relocated to Rule 420.50.

.12 The amendment adds a specification of the documentation which will be necessary if a deceased partner's interest is to be considered as capital in a continuing firm. This is a revised version of the discussion in the supplementary material to the present Rule 325.18. It is more appropriate in Rule 313.

.22 Requires that where a stockholder may compel the redemption of his stock the corporate documentation must contain certain conditions and restrictions relating to such redemption. The proposed amendment eliminates the restrictions which are now incumbent upon the corporation pursuant to SEC Rule 15c3-1(e) [17 CFR § 240.15c3-1(e)] and adds reference to SEC Rule 15c3-1 [17 CFR § 240.15c3-1].

RULE 320 (MISCELLANEOUS RESTRICTIONS ON CORPORATE MEMBERS)

(f) Provides conditions and restrictions relating to the redemption or repurchase of stock by a member corporation. The amendment eliminates those restrictions now incorporated in SEC Rule 15c3-1(e) [17 CFR § 240.15c3-1(e)] and adds reference to SEC Rule 15c3-1 [17 CFR § 240.15c3-1].

RULE 321 (FORMATION OF CORPORATE AFFILIATES)

.34 Provides that a member organization may carry a cash or margin account for a corporate affiliate but must charge its capital for any debit balance and may not allow any value for securities positions in the affiliate's account. The amendment to this rule will eliminate these provisions for capital treatment and provide instead that the affiliate's account will be subject to the rules and regulations generally applicable to customers' accounts. This will be consistent with the SEC rule.

RULE 322 (GUARANTEED CORPORATE SUBSIDIARIES)

.10 Requires that the minimum net capital of a guaranteed corporate sub-

sidiary shall be $10,000. The amendment will change this to not less than $10,000, but provids that if the subsidiary is a broker or dealer, the minimum net capital dollar amount under proposed Rule 325 will apply. This assures that the minimum requirement will be consistent with the requirement under proposed Rule 325 and the SEC rule.

RULE 324 (FORMATION OF ASSOCIATED PARTNERSHIPS)

.24 Requires that the minimum net capital of an Associated Partnership shall be $10,000. The amendment will change this to not less than $10,000 but provides that if the Associated Partnership is a broker or dealer, the minimum net capital dollar amount under proposed Rule 325 will apply. This assures that the minimum requirement will be consistent with the requirement under Rule 325 and the SEC rule.

RULE 326

(*Growth Capital Requirement*) (a) Provides that a member organization carrying customer accounts may not expand its business if its capital position does not meet certain enumerated requirements or the member organization has been restricted by the Exchange.

(*Business Reduction Capital Requirement*) (b) Provides that a member organization carrying customer accounts must reduce its business if its capital position fails to meet certain enumerated requirements or the member organization has been restricted by the Exchange.

(*Unsecured Loans and Advances*) (c) Provides that a member organization may not make unsecured or partly secured loans and advances to certain persons or entities having certain relationships with the organization, without approval of the Exchange if after such action the organization's capital position would fall below certain enumerated requirements.

(*Unsecured Loans and Advances*) (d) Provides that a member organization having outstanding any unsecured or partly secured loans, as described under paragraph (c) of the rule, must reduce or eliminate the loans or otherwise restore its capital to the point where it meets the requirements under paragraph (c) of the rule if its capital position fails to meet certain enumerated standards.

(*Distribution of Profits or Dividends*) (e) Prohibits the distribution of profits or declaration of dividends by a member organization if it would cause the organization's capital position to fall below certain enumerated requirements.

Under Rule 15c3-1 [17 CFR § 240.-15c3-1], there is no requirement similar to Rule 326(a), (b) or (d). Rule 15c3-1(e) [17 CFR § 240.15c3-1(e)] restricts the withdrawal of capital through unsecured loans and advances similar to 326 (c) but the provision is not as comprehensive. The Rule 15c3-1(e) [17 CFR § 240.15c3-1(e)] contains provisions equivalent to those of Rule 326(e).

The proposed amendments would eliminate paragraph (e) and, with regard to paragraphs (a), (b), (c) and (d), read as follows:

GROWTH CAPITAL REQUIREMENT

Rule 326(a). A member organization which carries customer accounts shall not expand its business during any period in which any of the following conditions exist for more than 15 consecutive business days:

(1) Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or some greater percentage as may from time to time be designated by the Exchange, or

(2) If subject to this requirement, its aggregate indebtedness is more than 1,000 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months would result in the condition described in (1), (2) or (3) above, or

(5) The Exchange restricts the member organization.

BUSINESS REDUCTION CAPITAL REQUIREMENT

Rule 326(b). A member organization which carries customer accounts shall forthwith reduce its business to a point enabling its available capital to meet the standards of Rule 326(a) if for more than fifteen (15) consecutive business days:

(1) Its net capital is less than 125 percent of its net capital minimum dollar amount requirement or some greater percentage as may from time to time be designated by the Exchange, or

(2) If subject to this requirement, its aggregate indebtedness is more than 1,200 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months would result in the condition described in (1), (2) or (3) above, or

(5) The Exchange restricts the member organization.

UNSECURED LOANS AND ADVANCES

Rule 326(c). No drawings, unsecured or partly secured loans or advances of funds by a member organization to any partner, director, officer, employee, stockholder, subordinated lender, secured demand note contributor or persons or entities related to, controlled by, under common control with such persons or in which such persons are employed, hold office or have a financial interest and no guarantees of obligations of any person shall be made, except with prior written approval of the Exchange, when any of the following conditions exist in a member organization, or if such drawings, loans, advances or guarantees would result in any of the following conditions:

(1) Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or some greater percentage as may from time to time be designated by the Exchange, or

(2) If subject to this requirement, its aggregate indebtedness is more than 1,000 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months would result in the condition described in (1), (2) or (3) above.

NOTE.—Applicable state laws should also be reviewed for restrictions on unsecured loans by corporations and partnerships.

Rule 326(d). Except with the prior written approval of the Exchange, a member organization which has outstanding any unsecured or partly secured loans or advances of funds, or guarantees of obligations of the nature described in (c) above, shall forthwith reduce or eliminate such unsecured or partly secured amounts due from such borrowers, or otherwise restore its capital to a point where the conditions described in (c)(1) through (4) did not exist, if any of the following conditions exist at the member organization:

(1) Its net capital is less than 125 percent of its net capital minimum dollar amount requirement, or some greater percentage as may from time to time be designated by the Exchange, or

(2) If subject to this requirement, its aggregate indebtedness is more than 1,200 per centum of its net capital, or

(3) If in lieu of (2) above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

(4) Capital withdrawals including maturities scheduled during the next six months would result in the condition described in (1), (2) or (3) above.

RULE 327 (CAPITAL REQUIREMENTS—REGISTERED BROKER-DEALERS)

This rul provides certain minimum capital requirements for members or member organizations which are registered with the Securities and Exchange Commission as broker-dealers but are not subject to NYSE capital requirements or are subject to NYSE requirements which are not as stringent as the Commission's. The uniform net capital rule does away with the need for this rule and it is therefore proposed to rescind Rule 327 in its entirety.

RULE 420 (REPORTS OF LOANS)

This rule provides for reporting and documentation of borrowings for capital and for non-capital purposes. It also requires reports of loans to members, allied members or member organizations. In many respects, it is similar to Rule 325.19 which together with Rule 325.20 and .21 will be eliminated under the proposal to rescind the present Rule 325 and adopt a proposed new rule.

The proposed amendments to this rule will:

(1) Change the title to "Reports of Borrowings and Loans."

(2) Restructure paragraph .10 to incorporate the first and second paragraphs of Rule 325.19 and eliminate the fourth paragraph, which is covered under the SEC rule.

(3) Paragraphs .20, .21, .22, and .23 have been added to require the use of Exchange printed forms for subordination agreements "to be considered in the computation of net capital" and approval by the Exchange of other subordination agreements not utilizing these Exchange forms.

(4) Paragraph .24 has been transferred from Rule 325.19.

(5) The first paragraph of .30 was transferred from Rule 325.20(5) and the second paragraph added to reflect the need for timely filing with the Exchange and SEC as required by paragraph (c)(6) of Appendix D to Rule 15c3-1 [17 CFR § 240.15c3-1d(c)(6)].

(6) Paragraph .50, requiring the replacement of scheduled capital withdrawals if necessary to meet capital requirements, has been transferred from Rule 325.20(4).

(7) The remaining provisions, .60, .70 and .80 have been renumbered and one part of .70, which required that loans from member organizations to their own members or allied members be reported on the next financial questionnaire required by the Exchange, has been appropriately eliminated.

RULE 431 (MARGIN REQUIREMENTS)

Paragraph (d)(2)(I) provides that a member organization carrying and clearing listed option transactions of specialists, market-makers or traders registered on a national securities exchange may carry the options transactions accounts subject to the requirements of the exchange on which the specialist, market-maker, or trader is registered. The Rule 15c3-1(c)(2)(x) & (xi) [17 CFR § 240.-15c3-1(c)(2)(x) & (xi)] provides certain adjustments to net worth for the carrying broker in these instances. Therefore, it is proposed to amend this rule to permit such accounts to be carried on a margin basis which is satisfactory to the concerned parties since the minimum capital requirements applicable thereto would be uniform under the SEC rule.

PROCEDURES OF SELF-REGULATORY ORGANIZATION

The Board of Directors of the New York Stock Exchange, at its October 16, 1975 meeting, approved the proposed rule amendments. No further Board or membership action is required to complete action on the proposal.

PURPOSE OF THE PROPOSED RULE AMENDMENTS

The proposed amendments will conform the Exchange Capital Rule to the Securities and Exchange Commission Rule 15c3-1 [17 CFR § 240.15c3-1] and will amend parts of other Exchange rules, where necessary, to relate them to the Commission's Rule.

BASIS UNDER THE ACT FOR THE ADOPTION OF THE PROPOSED AMENDMENTS

The proposed amendments to Rules 325, 313.11, 313.12, 320(f), 321.34, 322.10, 324.24, 326, 327, and 431 are based on section 15(c)(3) of the Securities Exchange Act of 1934 which requires the Securities and Exchange Commission to establish minimum financial responsibility requirements for all brokers and dealers. They are also based upon section 6(c)(3) of the Securities Exchange Act of 1934 which permits a national securities exchange to deny or condition membership if a broker or dealer does not meet such standards of financial responsibility as are prescribed by the rules of the exchange.

The NYSE is presently sufficiently well organized and staffed to initiate the necessary steps to regulate and enforce compliance with the Act, the rules and regulations thereunder and its own rules as respects members, member organizations and persons acting as broker or dealers in securities who are associated with a member of the Exchange. Furthermore, the NYSE has both a successful regulatory experience, as well as staff and the economic base to support the necessary regulatory activities.

The proposed amendments will not prevent a broker or dealer or natural person associated with a registered broker or dealer from becoming a member of the Exchange provided they can comply with the minimum capital requirements rules of the Exchange and the Securities and Exchange Commission.

The proposed rule amendments relate to the ability of the Exchange to (A) prevent fraud and manipulative acts and practices; (B) promote just and equitable principles of trade; (C) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; (D) remove impediments to and perfect the mechanism of a free and open market and a national market system, and (E) protect investors and the public interest in that (1) it establishes a minimum capital requirement which is designed to assure that each broker or dealer will have sufficient capitalization, according to the type of business engaged in, to conduct his business in accordance with the purposes of the Securities Exchange Act of 1934, the rules and regulations thereunder, and the rules of the Exchange, and (2) it provides the Exchange with the authority to force members, member organizations and brokers and dealers who are associated with members or member organizations who are subject to Exchange regulation under the Securities Exchange Act of 1934 to maintain capitalization within safe limits of the minimum requirements.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OF OTHERS ON PROPOSED RULE

All the proposed amendments are related to the requirements of the Securities and Exchange Commission's Uniform Net Capital Requirement Rule 15c3-1 [17 CFR § 240.15c3-1] which became effective on September 1, 1975. Prior to adoption of this rule, proposals were released for comment on several occasions by the Commission and these were redistributed by the Exchange to its members and member organizations. On each occasion all comment received by the Exchange was forwarded to the Commission. Inasmuch as the proposed amendments do not ordinarily require Exchange distribution for comment and in view of the substantial exposure of the underlying SEC Rule 15c3-1 before adoption, no comment was sought from the Exchange Community in connection with these amendments.

BURDEN ON COMPETITION—INAPPLICABLE

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 02549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 29, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 9, 1975.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34746 Filed 12-29-75;8:45 am]

[Release No. 34-11933; File No. SR-NYSE-75-19]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 28, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE PROPOSED RULE CHANGES FEE SCHEDULE FOR MAJOR SERVICES

Deposits	*$0.10 per deposit by issue.*
Deliveries—Miscellaneous Delivery Order (MDO's) including odd-lots, Deliver Balance Order (DBO), Preauthorized Delivery Service (PDQ), [Continuous Net Settlement].	[.52] *.58* per instruction on each the receive **and deliver** side.
Continuous Net Settlement (CNS).	*.40 per instruction on both the Participant-broker and the Participant-Clearing Corporation side.*
Settlement	.16 per settlement item (*not on CNS*).
Withdrawals by Transfer (WT's).	.63 per assignment.
Withdrawal of Nominee Certificates (COD's):	
Regular	[1.56] *1.60* per COD.
Additional certificates beyond first	[.36] *.39* whether or not requested.
Fast Automated Security Transfer (FAST):	
Regular	[1.26] *1.60.*
Additional certificates beyond first	[.36] *.75* only if requested.
Collateral Loans	.42 per line item for each pledge, release or substitution by issue for each Participant.
Long Position (per month)	.42 monthly charge per issue plus price per 100 shares of: [.0026] *.0050* for 0–25MM sh.[1]; .0013 for 25–200MM sh.[1]; .000652 for over 200MM [1]; *zero over 300MM.*
Usage Charge	$260 per month for Participants (including those which are also Pledgee Banks) and non-Participant Pledgee Banks.
Charge for being a Depository Facility.	[$210 per month] *.30 per deposit charged to the Depository Facility with a minimum monthly charge of $100 and a maximum monthly charge of $200.*
Depository Facility Deposit.	*.12 per deposit charged to the Participant into whose account the deposit is made.*

[1] Per 100 shares based on daily average for the month; per issue charge also based on daily average for the month.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

3. *Purpose of Proposed Rule Changes.* The purpose of the proposed changes in the Operating Procedures (Procedures) of The Depository Trust Company (DTC), a subsidiary of the New York Stock Exchange, Inc. (Exchange), is to increase, and fairly allocate, the fees imposed upon Participants to cover increases in estimated expenditures and decreases in revenues arising from new variations in DTC services resulting from the introduction by Stock Clearing Corporation (SCC) and American Stock Exchange Clearing Corporation in the middle of 1975 of the CNS system for the settlement of securities transactions and the anticipated inclusion of Exchange odd-lot settlements in the CNS system.

4. *Basis under the Act for Adopting the Proposed Rule Changes.* (a) Not Applicable.

(b) The proposed changes in the Procedures relate to the Exchange's subsidiary, DTC. The changes in Procedures relate to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (Act) by equitably allocating fees among DTC Participants.

(c) Not Applicable.

5. *Comments Received from Members, Participants or Others on Proposed Rule Changes.* Comments regarding a proposed fee schedule (see Exhibit 3) which differs from that referred to in item 1 were solicited from DTC Participants, Pledgee Banks and Depository Facilities by notice dated August 4, 1975. The changes in the schedule in item 1 as compared with the schedule in Exhibit 3 were made in response to the below-described comments. Objections were made in general to any fee increase since DTC earned a substantial profit in the first 6 months of 1975 and objections were made to specific fees as excessive relying, in essence, on the amount of percentage increase as justification for complaint; recommendations were made that DTC operate at cost or below cost rather than returning profits to Participants at year end. Specific objections follow: 1) the impact of inclusion of American Stock Exchange securities in the CNS system was not discussed by DTC; 2) the relationship between the fee schedule and DTC's research and development costs was not discussed by DTC; 3) it is illogical to impose charges with respect to the number of shares rather than with respect to long positions as the cost of handling small long positions is virtually identical to that of handling large long positions; 4) the long position charges result in the smaller user of DTC services paying more per share than a large user of DTC services; 5) the decrease in rate of charges for a greater number of shares creates the illogical result that the addition of the 25 millionth share reduces costs by 75%; 6) if the considerably higher price for COD withdrawal as compared with withdrawal by transfer results from dividend claims, then those excess costs should be borne directly by the Participant initiating the withdrawal; 7) it is unjustifiable to levy a 12¢ per deposit charge with respect to Depository Facility deposits when there is no basic deposit charge for deposits directly into DTC; 8) charges should not be used to force usage of services; 9) certain charges are too low, *i.e.*, there is no charge for a deposit into DTC while the unit cost is $1.24, the charge for a WT is 63¢ while the cost is $1.05, there is no charge for proxy or dividend services; 10) the no per share charge policy for 300 million shares should be applied with respect to shares over 100 million; 11) The proposed increase in COD charges would be onerous for institutions making physical deliveries to non-Participants; 12) the fees will discourage entry of institutional Participants who maintain large securities inventories in DTC; 13) there is a discriminatory bias in the fee schedule in that the impact on 54% of the Participants ranges from a savings of 4% to an increase of 5% or less while the impact on the remaining 46% of the Participants will be increases ranging from 6% to 36%; 14) it is inconsistent to allow deposits in DTC to escape charges in order to attract Participants while at the same time charging still higher fees for COD deliveries which will discourage participation or in other words, it is unfair for broker-dealers to subsidize a system which encourages institutions to join by the lack of deposit fees while being required to bear greater charges for making deliveries to those institutions which are clients of such broker-dealers; 15) a suggestion was made to allow a three month free deposit period for all new Participants with a deposit fee being imposed later; 16) it would be more equitable to defer the recovery of all costs on new systems being developed such as the ID System and the DTC terminal system until such service is made available to all Participants, such costs being passed on to all Participants in the event of the failure to implement the service, as opposed to providing free service to certain users during a pilot period which is subsidized by all Participants; 17) it is disconcerting to learn that the benefits of the CNS system are being dissipated in the DTC system because the CNS system has reduced the units being processed in the DTC system, the fixed charges resulting in increasing the cost for the remaining units in the DTC system; 18) assuming a drop in units being processed, one might conclude that the operating costs not represented by fixed charges should have a significant reduction; 19) the schedule is misleading in that it shows a reduction in CNS delivery charges to brokers by .15¢ whereas the .37¢ charge to the clearing corporation will be passed on to the brokers, thereby resulting in an effective increase; 20) The $1.00 surcharge on transactions via another depository would prevent Participants from acting as clearing agents for accounts who want to "piggy-back" on the Participant through DTC; 21) DTC failed to identify planned purchase of Exchange software as a major cost item; 22) the fee increases will encourage Participants to set up their own inventory of physical securities. Objections to the item 1 fee schedule follow: 1) the 10¢ per deposit fee will discourage Participants from depositing securities in DTC; 2) DTC's statements with respect to the percentage increase resulting from the new fee schedule appears to be too low; 3) the unjustifiable increases contained in the fee schedule proposed on August 4, 1975 are nevertheless preferable to the increases contained in the new schedule which result only in a greater surplus of funds for DTC; 4) the reasons for the rate increase offered by DTC, *i.e.*, payment to the Exchange of DTC's development costs, decrease in income arising from the CNS system, union employee contracts, purchase of a new computer, are not convincing; 5) DTC should trim its budget, the Exchange should be required to forego the repayment of DTC's development costs and any fee increase should be suspended until events in 1976 actually indicate the need for an additional levy.

6. *Burden of Competition.* None.

Within 35 days of the date of publication of this notice in the *Federal Register*, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 20, 1976.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 17, 1975.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34744 Filed 12-29-75;8:45 am]

[Release No. 11941 SR-PSE-75-6]

PACIFIC STOCK EXCHANGE, INCORPORATED

Order Approving Proposed Rule Change

DECEMBER 18, 1975.

On November 3, 1975, the Pacific Stock Exchange, Incorporated ("PSE"), filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change.

The proposed rule change amends Section 5 of Rule XX of PSE to provide procedures dealing with the operations of Pacific Securities Depository Trust Company and Pacific Clearing Corporation and the services provided by the two entities for each other.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 11799, November 7, 1975) and by publication in the FEDERAL REGISTER (40 Fed. Reg. 52774, November 12, 1975).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to PSE.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on November 3, 1975, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34851 Filed 12-29-75;8:45 am]

[Release No. 19305; 70-5778]

NATIONAL FUEL GAS COMPANY AND NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Proposed Guarantee By a Holding Company of Notes of a Non-Affiliate; Indemnity Agreement Between Holding Company and a Subsidiary in Connection With Such Guarantee

Notice is hereby given that National Fuel Gas Company ("National Fuel Gas"), a registered holding company, and its wholly-owned subsidiary company, National Fuel Gas Distribution Corporation ("Distribution") have filed a joint declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 7, 12(b) and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

It is proposed that National Fuel Gas will enter into a guarantee agreement ("guarantee agreement") with General Electric Credit Corporation ("GECC") whereby National Fuel Gas will act as guarantor on a loan from GECC to Paragon Resources, Inc. ("Paragon"), a supplier of natural gas to Distribution. National Fuel Gas will guarantee the payment of $6,000,000 in principal plus accrued and unpaid interest persuant to a consolidated loan agreement ("consolidated loan agreement") between GECC and Paragon. Upon execution of the consolidated loan agreement, the amounts outstanding under prior loans from GECC to Paragon totaling not more than $2,000,000 will be consolidated with the additional $6,000,000 being loaned by GECC to Paragon. In no event, however, will National Fuel Gas' obligations to GECC pursuant to the guarantee agreement exceed $6,000,000 plus accrued and unpaid interest. The consolidated principal amount will be repaid in installments over a period of seven years from the date of execution of the consolidated loan agreement. Interest on the loan will be 3⅝% above the higher of the prime rate or the 90 day commercial paper rate. Paragon will repay the installments of principal and interest due GECC under the consolidated loan agreement from revenues received under its supply contract with Distribution.

National Fuel Gas' obligations under the guarantee agreement will be subordinated to its obligations under its presently outstanding debentures and under any additional debentures issued pursuant to indentures substantially similar to those presently in effect.

National Fuel Gas will be obligated, upon the occurrence of an event of default and the declaration by GECC that the outstanding principal amount of the consolidated note is due and payable, to pay upon demand by GECC the lesser of (a) $6,000,000 plus accrued and unpaid interest thereon or (b) the total amount of the guaranteed indebtedness within five days of GECC's demand for such payment. In the alternative, National Fuel Gas will have the right upon such demand by GECC to purchase Paragon's then existing obligations to GECC for a price equal to the full amount of the guaranteed indebtedness. The guarantee agreement provides that upon either (1) the insolvency, reorganization, or liquidation of National Fuel Gas or similar specified event or (2) the occurrence of an event of default under any of National Fuel Gas' indentures and the acceleration of indebtedness outstanding thereunder, the holders of the affected debentures shall be entitled to the payment in full of all principal and accrued interest before National Fuel Gas would be required to make any payment under the guarantee agreement.

Among the other provisions of the guarantee agreement is a requirement that without consent of National Fuel Gas, there will be no additional advances to Paragon or amendments to the manner of calculating interest having the effect of increasing the interest rate.

National Fuel and Gas Distribution further propose to enter into an indemnity agreement under which Distribution will agree to indemnify National Fuel gas against any expenses, liabilities, or damages which may be incurred in connection with the performance of National Fuel Gas of its obligations under the guarantee agreement and the transactions contemplated thereunder. Upon such payment by Distribution, Distribution will be subrogated to the rights of National Fuel Gas against Paragon and all rights and property received by National Fuel Gas by virtue of such performance will, upon performance by Distribution of its obligations under the indemnity agreement, be transferred or assigned to Distribution.

The proceeds of the loan will be used by Paragon to provide funds for (1) payment of Paragon's current accounts payable; (2) the purchase of additional steel pipes for wells drilled or to be drilled by Paragon; (3) payment of Paragon's obligations under unproven leases; and (4) the acquisition of new mineral bases in New York and Pennsylvania.

It is stated that the proposed transactions will promote the best interests of the National Fuel Gas System and its customers. To offset the substantial curtailments currently imposed by interstate gas pipeline suppliers further development of local gas reserves is necessary. Paragon accounts for approximately 80 percent of Distribution's locally produced supply in western New York.

The proposed transactions are therefore supporting a proven supplier whose production is assured to Distribution through contract. The proposed transactions encourage additional production without directly exposing either National Fuel Gas or Distribution to the risks inherent in drilling activities and the necessary large capital requirements associated therewith.

The fees and expenses to be incurred in connection with these transactions are estimated at $7,000, including legal fees of $5,000. It is stated that the Public Service Commission of the State of New York and the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions. In addition the Public Utilities Commission of Ohio may have jurisdiction over the proposed transactions. No other State commission and no Federal commission other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 12, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34825 Filed 12-29-75;8:45 am]

[Release No. 11940; SR-PSE-75-5]

PACIFC STOCK EXCHANGE, INCORPORATED

Order Approving Proposed Rule Change

DECEMBER 18, 1975.

On November 3, 1975, the Pacific Stock Exchange, Incorporated, ("PSE") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change.

The proposed rule change amends Section 2(h-a) of Rule XX of PSE relating to buy-in procedures for listed and over-the-counter securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 11798, November 7, 1975) and by publication in the FEDERAL REGISTER (40 Fed. Reg. 52774, November 12, 1975).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to PSE.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on November 3, 1974, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34852 Filed 12-29-75;8:45 am]

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 19, 1975.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchange:

Combined Communications Corp., File No. 7-4778.
Dean Witter Organization, Inc., File No. 7-4779.
Denny's Inc. (Cal.), File No. 7-4780.
Japan Fund Inc., File No. 7-4781.
National Medical Care, Inc., File No. 7-4782.
Robintech Inc. (Del.), File No. 7-4783.
Southland Corporation, File No. 7-4784.
Wheelabrator-Frye, Inc., File No. 7-4785.

Upon receipt of a request, on or before January 4, 1976 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34932 Filed 12-29-75;8:45 am]

CINCINNATI STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 19, 1975.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

North American Philips Corporation, File No. 7-4786.
Bancal Tri-State Corporation, File No. 7-4787.

Upon receipt of a request, on or before January 4, 1976, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34933 Filed 12-29-75;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

DECEMBER 19, 1975.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the

Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

The Williams Companies, File No. 7-4776.
Delmarva Power & Light Co., File No. 7-4777.

Upon receipt of a request, on or before January 4, 1976, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-34934 Filed 12-29-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1200]

ALABAMA

Declaration of Disaster Area

Baldwin, Mobile, and adjacent counties within the State of Alabama, constitute a disaster area because of damage resulting from strong winds, heavy rains and flooding November 6 through 9, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 16, 1976, and for economic injury until the close of business on September 15, 1976, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

Dated: December 17, 1975.

DANIEL T. KINGSLEY,
Acting Administrator.

[FR Doc.75-35016 Filed 12-29-75;8:45 am]

[License No. 02/02-0314]

LLOYD CAPITAL CORP.

Issuance of a License to Operate as a Small Business Investment Company

On October 16, 1975, a notice was published in the FEDERAL REGISTER (40 FR 48557) stating that Lloyd Capital Corporation, 186 Riverside Drive, New York, New York 10024, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the rules and regulations governing small business investment companies (13 CFR 107.102 (1975)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business October 25, 1975, to submit their written comments. None were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on December 10, 1975, issued License No. 02/02-0314 to Lloyd Capital Corporation, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 18, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-35015 Filed 12-29-75;8:45 am]

[Declaration of Disaster Loan Area No. 1202]

WASHINGTON

Declaration of Disaster Area

As a result of the President's declaration I find that Grays Harbor, King, Lewis, Skagit, Snohomish, Whatcom, and adjacent counties within the State of Washington constitute a disaster area because of damage resulting from severe storms and flooding beginning about November 30, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 13, 1976, and for economic injury until the close of business on September 13, 1976, at:

Small Business Administration,
District Office,
5th Floor, Dexter Horton Building,
710 Second Avenue,
Seattle, Washington 98104.

or other locally announced locations.

Dated: December 17, 1975.

DANIEL T. KINGSLEY,
Acting Administrator.

[FR Doc.75-35017 Filed 12-29-75;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 23, 1976, at 10:00 AM, the St. Petersburg Regional Office Station Committee on Educational Allowances shall at the Federal Building, 144 First Avenue, So., Room 610, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Herlong Aviation, Inc., Jacksonville, Florida, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: December 17, 1975.

CARLOS L. RAINWATER,
Acting Director, VA Regional Office.

[FR Doc.75-34826 Filed 12-29-75;8:45 am]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 15, 1976, at 10 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Tennessee Barber College, 515 Jefferson Street, Nashville, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: December 16, 1975.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.75-34813 Filed 12-29-75;8:45 am]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educatonal Allowances that on January 13, 1976, at 10 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Gallatin Flying Service, Inc., Gallatin, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at tha time and place.

Dated: December 16, 1975.

R. S. BIELAK,
Director, VA Regional Office.

[FR Doc.75-34814 Filed 12-29-75;8:45 am]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 14, 1976, at 10 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Personal Air Service, Inc., P.O. Box 366, Madisonville, Tennessee, should be discontinued, as provided in 38 CFR 21.-4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: December 16, 1975.

R. S. BIELAK,
Director, VA Regional Office, Nashville, Tennessee.

[FR Doc.75-34815 Filed 12-29-75;8:45 am]

DEPARTMENT OF LABOR

Office of Employee Benefits Security

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:00 a.m. on Wednesday, January 14 and at 9:00 a.m. on Thursday, January 15, 1976, in the Federal Ballroom North, Quality Inn—Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Administration of Oath to New Members.
2. Reporting Forms and Regulations—Status Report.
3. Advisory Council Operations Work Group Report.
4. Reporting, Disclosure and Recordkeeping Work Group Report.
5. Investment Work Group Report.
6. Prohibited Transactions Work Group Report.
7. Small Business Impact Work Group Report.
8. Minimum Standards Work Group Report.
9. Joint and Survivor's Benefits.
10. Department of Labor Regulation Priorities for 1976.

Any member of the public may file a written statement concerning the topics under this agenda by submiting 30 copies on or before the close of business Monday, January 12, 1976 to Mr. James D. Hutchinson, Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C. 20210.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4700, Washington, D.C. 20210, or may call Area Code 202/523-8753.

Signed at Washington, D.C., this 23rd day of December, 1975.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.75-35060 Filed 12-29-75;8:45 am]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Subgroup Meetings

Notice is hereby given of subgroup meetings of the National Advisory Committee on Occupational Safety and Health, a committee established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656). The purpose of this Committee is to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act. Subgroups on budget, compliance, standards, and policies and issues were established by the Committee to assist in carrying out its responsibilities.

All subgroup meetings will be held in the Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210. The meetings will begin at 9:00 a.m. The public is invited to attend.

The Subgroup on Standards will meet on January 16, 1976 in Room N-4437. This group will discuss OSHA's ongoing efforts to revise and modify safety and health standards adopted under section 6(a) of the Act. The subgroup also will examine the total standards development process. A representative from the National Institute for Occupational Safety and Health (NIOSH), the agency in the U.S. Department of Health, Education, and Welfare responsible for occupational safety and health research, will brief the Subgroup on the Institute's activities in the standards development area.

The Subgroup on Budget will meet on January 22 and possibly the morning of January 23 in Room N-4437. The agenda will include the application of OSHA's FY 1976 budget, a consideration of the FY 1977 budget, and plans for the FY 1978 budget. In addition, NIOSH will brief the Subgroup on its FY 1977 and FY 1978 budgets.

The Subgroup on Policies and Issues has scheduled a meeting for January 23, 1976 in Room N-5437. Items to be discussed are OSHA's overall approach to small business and the role of labor-management activity with regard to OSHA's responsibility for standards setting and enforcement. NIOSH will present a series of policy issues with regard to its current activities.

The Subgroup on Compliance will meet on January 28, 1976 in Room N-4437. Topics for discussion will include the penalty system for violations of OSHA standards, the issue of repeated violations, and employer liability with regard to multi-employer worksites. In addition, the Subgroup will review milestones for OSHA's National Emphasis Program which focuses special compliance efforts on foundries and the casting and metal stamping industries. NIOSH will brief the Subgroup on its activities impacting OSHA's enforcement efforts.

Anyone wishing to submit written data or views concerning these agenda items to a subgroup should submit them along with 20 duplicate copies to the Committee's Executive Secretary one week prior to that particular subgroup's meeting date. These documents will be presented to the subgroup and included in the official record of the meeting.

Although it is unlikely that at this time the subgroups will be able to schedule oral presentations from the public, the subgroup chairmen will review all such requests. Anyone wishing to request an oral presentation should contact the Committee's Executive Secretary at least one week prior to the meeting in question. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Please address all communications to the Executive Secretary as follows:

J. Goodell, Executive Secretary, National Advisory Committee on Occupational Safety and Health, Room N-3633, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

Official transcripts of the meetings will be available for public inspection at OSHA's Technical Data Center, Room N-3620 at the above address.

Signed at Washington, D.C. this 23rd day of December 1975.

J. GOODELL,
Executive Secretary.

[FR Doc.75-35044 Filed 12-29-75;8:45 am]

Office of the Secretary

[TA-W-319]

BAGANOFF ASSOCIATES, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 5, 1975, in response to a worker petition received on that date which was filed by workers and former workers producing mechanical strain recorders and data transcribers at Baganott Associates, Inc., St. Louis, Missouri.

Notice of the investigation was published in the FEDERAL REGISTER on November 21, 1975 (40 FR 54318). No public hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at Baganoff Associates, Inc. occurred in June of 1974.

Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm ocurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is October 24, 1975 and, thus, workers laid off prior to October 24, 1974 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C. this 17th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-35051 Filed 12-29-75;8:45 am]

[TA-W-210, 234]

JOSEPH H. COHEN & SONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-210, 234: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 2, 1975 in response to a worker petition received on October 2, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing men's tailored suits and sportcoats at the New Haven, Indiana plant of Joseph H. Cohen & Sons, Inc., a division of Rapid-American Corporation. The investigation was expanded on October 14, 1975 in response to a worker petition received on October 14, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing men's tailored suits and sportcoats at the firm's Philadelphia, Pennsylvania plant.

The notices of investigation were published in the FEDERAL REGISTER (40 FR 48414; 49827) on October 15 and 24, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Joseph Cohen, its customers, the U.S. Department of Commerce, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of workers employed at Cohen's Philadelphia plant declined 6 percent in the first eight months of 1975, compared to the like period in 1974. The average number of production workers employed at the firm's New Haven plant declined 7 percent in the first six months of 1975, compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production of men's tailored suits and sportcoats at Cohen's Philadelphia and New Haven plants, expressed in terms of shipments which generally follow final production by about two months, declined 16 percent and 14 percent, respectively, in the first eight months of 1975 compared to the like period in 1974. Production at the New Haven plant was terminated in June 1975.

Increased Imports Contributed Importantly. From 1973 to 1974, imports of men's tailored suits decreased absolutely and as a ratio to domestic production and consumption. During the same preiod, imports of men's tailored sportcoats decreased absolutely but increased slightly as a ratio to domestic production and consumption.

In the first seven months of 1975, imports of men's tailored suits increased 131 percent in absolute terms and increased dramatically as a ratio to domestic production when compared with the like period in 1974. Imports of men's tailored sportcoats increased substantially as a ratio to domestic production during the same period.

Some of Cohen's largest customers reduced purchases from Cohen in 1975 and shifted to imports in order to gain a significant price advantage available from foreign-made men's clothing. Because Cohen was unable to successfully compete with imports in terms of price, company sales fell substantially in the first eight months of 1975. Consequently the firm was forced to curtail production and employment at its two plants. Cohen closed its New Haven sewing facility in June 1975 and consolidated all operations in the Philadelphia plant which experienced a significant reduction in employment.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's tailored suits and sportcoats produced at the New Haven, Indiana and Philadelphia, Pennsylvania plants of Joseph H. Cohen & Sons, Inc. contributed importantly to the total or partial separation of the workers at such plants. In accordance with the provisions of the Act, I make the following certification:

"All hourly, piecework and salaried employees of the New Haven, Indiana and Philadelphia, Pennsylvania plants of Joseph H. Cohen & Sons, Inc., who became or will become totally or partially separated on or after January 12, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 18th day of December 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.75-35050 Filed 12-29-75;8:45 am]

[TA-W-177]

MARYLAND CLOTHING MANUFACTURING CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-177; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1975 in response to a worker petition received on September 26, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing custom made and tailored men's sportcoats, suit coats, overcoats and uniform coats at the 3023 E. Madison Street, Baltimore, Maryland plant.

The notice of investigation was published in the FEDERAL REGISTER on October 7, 1975 (40 FR 46373). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Maryland Clothing Manufacturing Company, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers remained constant in the first three quarters of 1975 compared to the like period in 1974. Average weekly hours increased 25.5 percent in the first three quarters of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales at the Maryland Clothing Manufacturing Company, Baltimore, Maryland plant increased 37.5 percent in the first three quarters of 1975 compared to the first three quarters of 1974. Production equalled sales since no inventories are maintained.

Sales of made-to-measure men's coats represent about 40 percent of total sales compared to 60 percent sales of tailored coats. The plant is still operating.

Increased Imports Contributed Importantly. Imports of made-to-measure tailored suits, sportcoats and trousers are not separately identified in the Tariff Schedules of the United States but are included with the aggregate data on imports of tailored suits, sportcoats and trousers. Imports of made-to-measure men's apparel are not known.

The evidence developed by the Department's investigation indicated that sales/production, average hours worked and average number of workers at the Maryland Clothing Manufacturing Company have either increased or remained stable between comparable periods from 1974 to 1975. Most of the production is of uniform coats more than half of which is of men's military uniform coats. Customers of uniform coats have not shifted to imports.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit coats, sportcoats, and overcoats (civilian and/or military) produced at the Baltimore, Maryland plant of Maryland Clothing Manufacturing Company did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 17th day of December, 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.75-35045 Filed 12-29-75;8:45 am]

[TA-W-181]

OAKLOOM CLOTHES, INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-181: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 26, 1975 in response to a worker petition received on September 26, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing suits and sportcoats at the Baltimore, Maryland plant of Oakloom Clothes, Inc.

The notice of investigation was published in the FEDERAL REGISTER on October 7, 1975 (40 FR 46374). No public hearing was requested and none was held.

The information upon which the determination is made was obtained principally from officials of Oakloom Clothes, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers decreased by 2.4 percent in 1974 compared to 1973 and by 6.0 percent in the first half of 1975 compared to the like period in 1974. Average weekly hours decreased by 13.3 percent in 1974 from 1973 and by 3.8 percent in the first half of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Company sales of men's suits and sportcoats, combined, declined 3.0 percent from 1973 to 1974. For the first nine months of 1975 sales were 13.4 percent below 1974 sales for the same period.

Increased Imports Contributed Importantly. Imports of men's and boy's suits have increased relative to domestic consumption and production each year from 1971 to 1973. While imports fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively were above the 1971–1973 average of 8.6 percent and 7.8 percent, respectively. In the first seven months of 1975, imports increased sharply and the ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Imports of men's and boy's sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent, respectively in 1972 to 22.3 and 18.2 percent, respectively in 1974. In the first seven months of 1975, the ratio of imports to domestic production increased to 36.7 percent from 24.5 percent in the first seven months of 1974.

The evidence developed during the Department's investigation indicates that major customers decreased purchases from Oakloom because of the effects of the economic recession. Some customers did not purchase imported tailored clothing while others imported tailored clothing for a clientele different from the Oakloom clientele. Oakloom made expensive, conservatively tailored clothing which generally appealed to older clients. Some Oakloom customers carried imports which sold in a different price and style category than the Oakloom line. Such imports did not influence their decisions to reduce orders from Oakloom.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportcoats produced at the Baltimore plant did not contribute importantly to the total or partial separation of the workers of that plant.

Signed at Washington, D.C. this 17th day of December 1975.

JAMES F. TAYLOR,
Director,
Planning and Evaluation Staff.

[FR Doc.75-35046 Filed 12-29-75;8:45 am]

[TA-W-205]

QUEEN CASUALS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-205: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 2, 1975 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union (AFL-CIO) on behalf of workers and former workers producing ladies' sportswear and casual wear at the Philadelphia, Pennsylvania plant of Queen Casuals, Inc.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 48418) on October 15, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Queen Casuals, Inc., its customers, the U.S. Department of Commerce, the U.S. Inter-

national Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at the Philadelphia plant increased three percent in 1974 compared to 1973 and declined three percent in the first ten months of 1975 compared to the same period in 1974. Average weekly hours for production workers declined 12 percent in the first ten months of 1975 compared to the first ten months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. The Philadelphia plant of Queen Casuals produces coordinated sportswear including knit skirts, pants, shorts, pant suits, shirts, and sweaters. The sportswear may be sold at the retail level as coordinated sets or as separate pieces. Sales by Queen Casuals of sportswear produced at the Philadelphia plant increased 25 percent in 1974 from 1973 and then declined six percent in the first ten months of 1975 compared to the first ten months of 1974.

Increased Imports Contributed Importantly. Imports of ladies' knit sweaters and shirts increased absolutely in ladies' knit skirts declined 60 percent from 1972 and 1974. Imports of ladies' knit slacks an dshorts declined 35 percent in 1974 and 1973.

Specific production and import information on ladies' knitted sportswear sold as coordinated sets is not available. Industry analysts indicate that imports of coordinated sets are negligible. Thus, only those articles produced by Queen Casuals and sold as separate pieces are subject to import competition.

The evidence developed in the Department's investigation of Queen Casuals indicates that imports adversely affected the sales of only those knit sweaters and shirts sold at the retail level as individual pieces. In view of the fact that an estimated 25 percent of total sales by Queen Casuals' Philadelphia plant during 1973–1975 were of sweaters and shirts, an in determinate portion of which were sold as part of coordinated sets not affected by increased imports, it is determined that increased imports of ladies' sportswear did not contribute importantly to the separation of a significant number or proportion of the workers of Queen Casuals, Inc.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' sportswear and causal wear produced at the Philadelphia, Pennsylvania plant of Queen Casuals, Inc. did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 17th day of December 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.75-35047 Filed 12-29-75;8:45 am]

[TA-W-199]

ROCKWELL INTERNATIONAL

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-199; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1975 in response to a worker petition received on September 24, 1975 which was filed by three employees on behalf of workers and former workers producing knitting machinery at the Reading, Pennsylvania plant of the Production Equipment Division of Rockwell International (known prior to January 1, 1975 as the Knitting Machinery Division of Rockwell International).

The notice of investigation was published in the FEDERAL REGISTER on October 7, 1975 (40 FR 46574). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rockwell International, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 66 percent in the first three quarters of 1975 compared to the like period in 1974. Average weekly hours declined 15 percent in the first three quarters of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales of circular knitting machinery for products other than hosiery from the Reading plant declined 85 percent by value in the first nine months of 1975 as compared to the like period in 1974. Production of these machines ceased in January 1975.

Sales of flat knitting machinery from the Reading plant declined 89 percent by value in the first nine months of 1975 as compared to the like period in 1974. Production of these machines ceased in October 1974.

Sales of circular knitting machinery for hosiery from the Reading plant declined 37 percent by value in the first half of 1975 as compared to the first half of 1974. Production of these machines ceased in April 1975.

Increased Imports Contributed Importantly. Imports of circular knitting machinery for products other than hosiery decreased from 3,291 units in 1973 to 1,603 units in 1974.

The ratios of imports to domestic consumption and production decreased from 81.4 percent and 110.3 percent, respectively in 1973 to 66.3 percent and 72.4 percent in 1974.

Imports of flat knitting machinery decreased from 8,720 units in 1973 to 8,616 units in 1974.

Imports of circular knitting machinery for hosiery increased from 769 units in 1971 to over 2,100 units in 1973. After a decline for the year 1974, imports of circular knitting machines for hosiery increased 75 percent in the first third of 1975 compared to the same period in 1974. Such imports represented 78 percent of domestic production in the first third of 1974 and 141 percent of domestic production in the first third of 1975.

Circular knitting machinery for hosiery constituted virtually all plant production of new machinery in the first third of 1975. Production of new machinery ceased entirely in April, 1975.

The evidence developed in the investigation indicates that sales and employment declines associated with circular knitting machines other than for hosiery and for flat knitting machines were due to declining demand for such machines. At the time the plant ceased production of such products imports of like and directly competitive products were declining. The Department's investigation did indicate sharp increases in imports of circular knitting machinery for hosiery during the period that the plant ceased production of such machinery.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports like or di-

rectly competitive with knitting machinery other than for hosiery and flat knitting machinery produced at the Reading, Pennsylvania plant of the Production Equipment Division of Rockwell International did not contribute importantly to the total or partial separation of the workers of that plant.

I conclude that increases of imports like or directly competitive with the circular knitting machines for hosiery produced at the Reading, Pennsylvania plant of the Production Equipment Division of Rockwell International did contribute importantly to the total or partial separation of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

"All hourly and salaried workers engaged in the production of circular knitting machines for hosiery who became totally or partially separated from employment on or after January 1, 1975 and before May 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974".

Signed at Washington, D.C. this 17th day of December 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[DR Doc.75-35048 Filed 12-29-75;8:45 am]

[TA-W-214]

ZOHN MANUFACTURING CO., INC.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-214, investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 2, 1975 in response to a worker petition received on October 2, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing uniforms and western clothing at the Denver, Colorado plant of Zohn Manufacturing Company, Incorporated, Denver, Colorado.

The notice of investigation was published in the FEDERAL REGISTER on October 15, 1975, (40 FR 48419). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Zohn Manufacturing Company, its customers, the U.S. Department of Commerce, and the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 58 percent in the second quarter of 1975 compared to the like period in 1974. Production employment was terminated in June 1975. Average weekly hours declined 20 percent in the first four months of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. The dollar value of sales at the Denver plant declined 23.5 percent in the first four months of 1975 compared to the first four months of 1974.

Production of coats and slacks declined 17.8 percent and 9.9 percent, respectively, in the fourth quarter of 1974 compared to the fourth quarter of 1973. No production data were available for 1975. All production was terminated in May 1975.

Increased Imports Contributed Importantly. All uniform imports enter the United States under the same TSUSA numbers as men's and boys' tailored suits. Consequently, the quantity of uniforms entering the United States is indeterminate. However, industry experts indicate that the level of imports of men's uniform suits is negligible. Imports of uniform coats and trousers have been negligible. Customers surveyed did not substitute imports of coats and trousers for those formerly purchased from Zohn. Three main factors caused Zohn's sales to decline: 1) economic conditions; 2) fashion trends shifting away from western styling; 3) increased competition from domestic suppliers of less expensive, knit trousers.

Declining sales, together with greatly increased production costs in recent years, resulted in Zohn's decision to discontinue production.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with western coats and trousers, and uniforms produced at the Denver, Colorado plant of Zohn Manufacturing Company, Incorporated did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 17th day of December 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.75-35049 Filed 12-29-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 6; Sub-No. 14]

BURLINGTON NORTHERN LINE

Abandonment Between Sauk Centre and Long Prairie, in Todd and Stearns Counties, Minnesota

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Todd and Stearns Counties, Minn., on or before December 30, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 8th day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

BURLINGTON NORTHERN LINE ABANDOMENT BETWEEN SAUK CENTRE AND LONG PRAIRIE, IN TODD AND STEARNS COUNTIES, MINNESOTA

The Interstate Commerce Commission hereby gives notice that by order dated December 8, 1975, it has been determined that the proposed abandonment by the Burlington Northern Inc., of its line of railroad between Sauk Centre and Long Prairie, Minn., a distance of 17.78 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because there has been no local service between these two stations since 1969 and all bridge traffic was rerouted to other lines of the BN on March 26, 1973. As there has been no service on the line in over two years, an abandonment of the line at this time will create no changes in the environment. No historic or archaeological sites listed in the National Register or eligible for inclusion in the Register are found on or adjacent to the subject corridor. Public interest has been expressed for acquisition of the subject right-of-way, upon abandonment, for recreational trail purposes.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 14, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35071 Filed 12-29-75;8:45 am]

[AB 7 (Sub-No. 19); Finance Docket No. 27754]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Abandonment of Line; Trackage Rights

In the matter of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company abandonment between Fairmont and Welcome, in Martin County, Minnesota, and trackage rights over a line of the Chicago and North Western Transportation Company between Fairmont and Welcome, Martin County, Minnesota.

Upon consideration of the record in the above-entitled proceedings, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in these proceedings because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby directed to publish the appended notice in a newspaper of general circulation in Martin County, Minn., on or before January 7, 1976, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 12th day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

[AB 7 (Sub-No. 19)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, ABANDONMENT BETWEEN FAIRMONT AND WELCOME, IN MARTIN COUNTY, MINNESOTA

FINANCE DOCKET No. 27754

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY—TRACKAGE RIGHTS—OVER A LINE OF THE CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY BETWEEN FAIRMONT AND WELCOME, MARTIN COUNTY, MINNESOTA

The Interstate Commerce Commission hereby gives notice that by order dated December 12, 1975, it has been determined that the proposed acquisition of trackage rights by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company over 7.1 miles of track owned and operated by the Chicago and North Western Railroad Company between Fairmont and Welcome, Minn., and the concurrent abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of 6.0 miles of track between Fairmont and Welcome, Minn., if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the actions permit the transfer of rail operations from one line to an adjacent, parallel track. All existing local service will be maintained and the applicant will gain the use of a higher capacity track, permitting improved service. In the Commission's Service Order 120, dated December 19, 1974, the authority sought under these applications was granted on a temporary basis due to unserviceable track conditions. No significant adverse impacts have been reported as a result of that action.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 22, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35072 Filed 12-29-75;8:45 am]

[Notice No. 940]

ASSIGNMENT OF HEARINGS

DECEMBER 23, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138741 Sub-17, E. K. Motor Service, Inc., now assigned January 20, 1976, at Chicago, Illinois, will be held in Room 438, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 130324, American Travel, Inc., now assigned January 29, 1976 at Montpelier, Vermont, will be held on The Third Floor, Court Room Federal Bldg., Post Office & Courthouse.

MC 105566 Sub-108, Sam Tanksley Trucking, Inc., now assigned January 20, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 119767 Sub-331, Beaver Transport Co., now assigned January 26, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 16831 Sub-19, Mid Seven Transportation Company, now assigned January 22, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 111485 Sub 18, Paschall Truck Lines, Inc., application dismissed.

MC 135691 Sub 4, Dallas Carriers Corp., application dismissed.

MC 135691 Sub 5, Dallas Carriers Corp., application dismissed.

MC 135691 Sub 6, Dallas Carriers Corp., application dismissed.

MC-F 12264 and 99888 Sub-3, Mayfield Transfer & Storage Co., Inc.—Purchase (Portion)—Fred Olson Motor Service Company, now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 110683 Sub-101, Smith's Transfer Corporation, now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC 10761 Subs-240, 246, 247, 249, 253, 254, 256, 257, 259, 260, Transamerican Freight Lines, Inc., now assigned January 27, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 106603 Sub-140, Direct Transit Lines, Inc., now assigned February 2, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC 123407 Sub-245, Sawyer Transport, Inc., now assigned February 3, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

MC-C 8807, Pacific Intermountain Express Co.—Investigation and Revocation of Certificates, now assigned February 5, 1976, at Chicago, Illinois, will be held in Room 672, 536 S. Clark Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35077 Filed 12-29-75;8:45 am]

[Notice No. 148]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 30, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission

pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before January 19, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76197. By order of December 22, 1975 the Motor Carrier Board approved the transfer to Robert J. Dillon, Woodbridge, N.J., of Certificate No. MC–75194 issued by the Commission February 12, 1964, to Beverly Storage Co., Inc., New York, N.Y., authorizing the transportation of new and used furniture, except household goods as defined by the Commission, between New York, N.Y., on the one hand, and, on the other, points in New York, New Jersey, and Connecticut. Alvin Altman, Esquire, Attorney for Transferor, Brodsky, Linett and Altman, 1776 Broadway, New York, N.Y. 10019. Mr. Robert B. Pepper, ICC Practitioner, Transferee's Representative, 168 Woodbridge Avenue, Highland Park, N.J. 08904.

No. MC–FC–76205. By order of December 22, 1975 Motor Carrier Board approved the transfer to Bell Trucking Company, P.O. Box 148, Youngstown, Ohio 44501, the Certificate in No. MC–72231* issued July 22, 1971, to J. W. Jones & Son Company, Youngstown, Ohio 44501 authorizing the transportation of: varied commodities, from, to or between points in Ohio, Pennsylvania, Illinois, Indiana, Michigan, New York and West Virginia. A. Charles Tell, 100 East Broad Street, Suite 1800, Columbus, Ohio 43215—Attorney for Transferee. Same for Transferor.

No. MC–FC–76219. By order entered December 22, 1975 the Motor Carrier Board approved the transfer to Fred W. Winkler, doing business as Grange Hall, Maiden Rock, Wis., of the operating rights set forth in Certificate No. MC–90208, issued April 21, 1964, to La Moine A. Mountin, Elmwood, Wis., authorizing the transportation of livestock, from specified points in Wisconsin to South St. Minn.; feed and farm machinery, from South St. Paul, Minn., to specified points in Wisconsin, over regular and irregular routes; and livestock and farm products, between points in the Towns of Rock Elm and Spring Lake, Pierce County, and Weston and Eau Galle, Dunn County, Wis., on the one hand, and, on the other, South St. Paul, Newport, Minneapolis, and St. Paul, Minn.; feed and salt, from South St. Paul, Newport, Minneapolis, and St. Paul, Minn., to points in the above-described Wisconsin territory; livestock and agricultural commodities, from points in the Towns of Rock Elm, El Paso, Salem, and Ellsworth, Pierce County, Wis., to Minneapolis, St. Paul, South St. Paul, Lake City, Red Wing and Newport, Minn.; and general commodities, with the usual exceptions, from Minneapolis, St. Paul, South St. Paul, Lake City, Red Wing and Newport, Minn., to points in the Wisconsin Towns specified immediately above; farm products, between Elmwood, Wis., and points except incorporated municipalities other than Elmwood, in the Towns of Union, Spring Lake, El Paso, and Salem, Pierce County, Wis., on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., general commodities, from Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., to Elmwood, Wis., and points except incorporated municipalities (other than Elmwood) in the Towns of Union, Spring Lake, El Paso and Salem, Pierce County, Wis.; and livestock, between Elmwood, Wis., and points except incorporated municipalities other than Elmwood, in the Towns of Union, Spring Lake, El Paso, and Salem, Pierce County, Wis., on the one hand, and, on the other, Minneapolis, St. Paul, South St. Paul, Stillwater and Newport, Minn., over irregular routes. F. H. Kroeger, 1745 University Avenue, St. Paul, Minn., 55104, practioner for applicants.

No. MC–FC–76238. By order of December 22, 1975 the Motor Carrier Board approved the transfer to Bill Doody Bus Tours Travel House, Inc., D/B/A Bill Doody Bus Tours, Buffalo, New York, of License No. MC–12872, issued March 19, 1965, to Travel House of Buffalo, Inc., Buffalo, New York, authorizing it to engage in operations as a broker of passengers and their baggage, in special and charter operations, in round-trip, all-expense tours, beginning and ending at Buffalo, N.Y., and extending to points in the United States including Alaska and Hawaii. S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C., 20005, Attorney for Applicants.

No. MC–FC–76261. By order entered December 22, 1975 the Motor Carrier Board approved the transfer to Darrel P. Purdy, doing business as Purdy's Moving & Transfer, Janesville, Wis., of the operating rights set forth in Certificate No. MC–34597, issued January 3, 1968, to Leonard S. Vechinsky, doing business as Alwin Transfer, Janesville, Wis., authorizing the transportation of household goods, as defined by the Commission, between points in Rock County, Wis., on the one hand, and, on the other, points in Illinois. Edward Solie, Executive Building, Suite 100, 4513 Vernon Blvd., Madison, Wis. 53705, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-35076 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975



PART II:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

EMERGENCY RELIEF PROGRAM FOR HOMEOWNERS

Final Rule on Standby Program

Title 24—Housing and Urban Development

CHAPTER XV—MORTGAGE INSURANCE AND LOAN PROGRAMS UNDER THE EMERGENCY HOMEOWNERS' RELIEF ACT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-355]

PART 2700—EMERGENCY HOMEOWNERS' RELIEF PROGRAM

Final Rule on the Standby Program

● The purpose of Chapter XV is to describe and establish a standby program authorized by the Emergency Homeowners' Relief Act to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income. If it becomes necessary to implement the program, HUD would provide emergency relief under the standby program by coinsuring loans made by private lenders or by making direct loans to homeowners to assist them in making their mortgage payments. ●

Notice was given on October 9, 1975, at 40 FR 47694 that the Secretary of Housing and Urban Development was proposing to add a new Chapter XV to Title 24 of the Code of Federal Regulations describing the requirements of the Emergency Homeowners' Relief Program in case it should be determined that economic conditions dictate the implementation of the standby program.

The Department of Housing and Urban Development has received nine responses to the October 9, 1975, publication. In addition, the Department received a number of letters from U.S. Senators, and Representatives and members of the general public which, though not intended to respond specifically to the notice of proposed rulemaking, addressed various aspects of the proposed program. All of these comments have been carefully reviewed and several changes have been incorporated in the final regulations as a result of the review. The principal changes are set forth below.

1. The term "substantial reduction in income" has been redefined in § 2700.5(s) to mean that a homeowner's income during the period of delinquency is less than 80 percent of his average gross monthly income during the 24-month period prior to the beginning of his involuntary unemployment or underemployment. This change, which raises the applicable percentage from 75 to 80 percent and effectively increases the amount of income a homeowner may have and still qualify, was made in order to take greater cognizance of the impact of inflation and to bring HUD's definition into line with the guidelines used by the Department of Labor.

2. The final program regulations require that a homeowner pay only 25 percent of his gross monthly income toward mortgage payments, instead of 35 percent as was specified in the proposed regulations. HUD decided to lower the monthly mortgage payment requirement again in an effort to compensate for the impact of inflation on the homeowner's income and in order to bring the Emergency Homeowners' Relief Program requirements more into line with other HUD-administered programs.

3. The Department decided to revise its definition of involuntary unemployment or underemployment to be consistent with the guidelines used by the Department of Labor. The Department of Labor's guidelines are more specific than those it originally proposed and HUD supports the use of consistent definitions by all Federal agencies whenever possible.

4. The Department has amended its proposed regulations to instruct lending institutions to presume that a homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of mortgage payments given certain factors outlined in § 2700.-110(d). HUD decided to adopt this presumption of program eligibility because it realized a difficult burden would be placed on lending institutions in forcing them to make this determination without specific criteria.

5. The regulations have been modified to clarify that HUD will consider applications by lenders for the allocation of insurance or direct loan authority in excess of the needs of its own mortgagors. This provision accommodates the fact that under certain circumstances lenders may be asked to provide assistance to other delinquent mortgagors if some lenders are unwilling to participate in the program. However, applications for insurance or direct loan authority are expected to be related primarily to the needs of the lending institution.

6. The section which describes the terms of the note in connection with emergency loans has been revised in order to make it clear to all lending institutions that the note may be accelerated at the option of the holder if the underlying first mortgage is in default after the emergency period has expired.

7. The phrase "to the best of his knowledge" has been added to the lending institution's certification on a number of the forms shown in the appendices to the final regulations. This phrase was added because of the extent to which lenders must rely on information supplied by the homeowner in determining eligibility under the Emergency Homeowners' Relief Program.

The revisions cited above incorporate to a significant extent a number of comments on the proposed regulations. Certain suggestions contained in the comments HUD received were incorporated in their entirety, while others were included only in part.

Major program issues which were included in the comments, but did not directly result in revisions to the proposed regulations are set forth below:

1. *Selection of the "trigger" rate.* A number of those who commented on the proposed regulations indicated that they considered that the "trigger" rate (1.20 percent for the composite delinquency index) was set too high. The Department reconsidered its initial decision to set the rate at 1.20 percent, but is still convinced that the rate is appropriate and that "widespread foreclosures and distress sales of homes" are not likely to develop unless the composite index reaches the trigger point. Moreover, HUD continues to believe that voluntary forbearance by lenders for mortgagors who cannot make their payments due to temporary adverse economic circumstances is preferable to the standby program.

2. *Regional versus national implementation.* Several comments received suggested that the Emergency Homeowners' Relief Program should be implemented on a regional rather than a national basis. Those who commented on this issue indicated that consideration should be given to regional and local housing markets with higher delinquency rates than the national average. The Department continues to believe that in view of the equity issues raised by a regional approach and because of severe data limitations, a national approach to the implementation of the Emergency Homeowners' Relief Program is necessary. The Department has just completed another review of the potential sources of regional data and again concluded that the data which are available do not provide satisfactory measures of the levels and trends in delinquencies and foreclosures on a local or regional basis.

3. *Discretionary authority of the Secretary.* Objections were raised to the fact that under the proposed regulations the standby program would not automatically be implemented even if the "trigger" rate is reached. The Department continues to consider it essential that the Secretary retain discretion even under those circumstances in order to determine whether such a rate portends increased foreclosures or, for example, simply indicates a statistical aberration or widespread voluntary forbearance. The Secretary will also consult with other Federal agencies before making a judgment as to implementation.

4. *Request for allocation authority.* A suggestion was made that lenders be allowed to submit an application for insurance or direct loan authority before the program is implemented so that they would be in a position to offer immediate relief to homeowners once the program is implemented. Realizing the need to provide prompt assistance to homeowners, HUD has made a considerable effort to develop a system which will permit lenders prompt access to insurance and direct loan authority if the program is implemented. Given this, and in view of the fact that a lender's request for program authority prior to actual implementation may bear little relationship to their actual needs at the time of implementation, it was decided not to incorporate this suggestion into the final program regulations.

5. *Risk under the direct loan program.* One respondent suggested that since lending institutions would be acting only as HUD's servicer under the direct loan program, HUD should assume 100 percent of the risk under this program. However, there are a number of reasons why HUD thinks that such servicers should bear a portion of the risk under the direct

loan program. First, the risk sharing feature of the direct loan program provides the lending institution with an incentive to see to it that appropriate underwriting standards are followed. Second, since the lending institution is a major beneficiary of the program, inasmuch as some of its delinquent loans will be brought current, it should be willing to share a portion of the risk. Finally, HUD feels it is necessary to include a risk provision in the direct loan program so as not to discourage the use of the coinsurance program.

6. *Title search.* Some lenders feel that it is prudent to require a title search as a condition for granting an emergency loan, and they feel that the cost of a title search should be recoverable from the homeowner. HUD, on the other hand, believes that the cost of a title search represents an unnecessary financial burden which a family applying for assistance under this program could ill afford to pay. The Department is willing to accept the added risk by not requiring a title search and instead accept the lender's judgment of the truthfulness of the borrower.

7. *Late charges.* One of those who commented suggested that lenders should be allowed to collect late charges in connection with the emergency loan. HUD has decided not to adopt this recommendation. Based on HUD's considerable experience with the use of late charges under some of the other programs it administers, the Department feels that the problems which might arise as a result of adding a late charge provision would far outweigh the possible benefits.

8. *Servicing fee for direct loans.* Some lending institutions indicated that since they would be acting as HUD's servicer under the direct loan program they should be entitled to a servicing fee. HUD, on the other hand, believes that any actions taken by the lending institutions on behalf of HUD under the Emergency Homeowners' Relief Program should be considered part of their normal servicing activity. In addition, since, as was pointed out earlier, lenders will benefit from the direct loan program, the Department sees no reason to pay the lending institution a fee for its participation in this program.

9. *Special repayment provision for low-income families.* A suggestion was made to allow low-income families to make their emergency loan principal repayments over a longer period of time or to allow these families to wait to begin principal repayments until after the first mortgage has been paid off. While HUD realizes that the repayment of the emergency loan may pose a greater problem to lower income families, eligibility for assistance under the coinsured and direct loans programs is predicated on the fact that the homeowner has a reasonable prospect of being able to repay both the emergency and delinquent loan once the temporary period of unemployment or underemployment has passed.

10. *Problems arising from long redemption periods.* One comment indicated that in Illinois homeowners would face foreclosure about 30 days after the date of a missed payment, because of the 1-year redemption period. However, § 2700.335(d) gives the Secretary authority to extend the time within which a claim must be submitted. Such extensions will be allowed to remedy problems arising in jurisdictions with especially long redemption periods. When the Secretary deems it appropriate, interest during the extension period will be allowed as part of the claim.

11. *Use of direct loan program.* A recommendation was made that use of the direct loan program should not be predicated on the fact that the lending institution cannot make coinsured emergency relief loans. HUD has decided to retain this provision in its final regulations because it believes that it is necessary to encourage lending institutions to use the coinsured loan program. The Department believes that this requirement is particularly appropriate in view of the limited funds available under the Emergency Homeowners' Relief Program and because the Federal Home Loan Bank Board and other Federal agencies have indicated their willingness to consider making advances to financial institutions for the purpose of making coinsured loans if the program is implemented.

After the proposed regulations were published, it was determined, on the basis of an opinion of HUD's General Counsel's Office, that in general all homes in areas having special flood hazards would be ineligible for assistance under the Emergency Homeowners' Relief Act, unless they are covered by flood insurance. Therefore, flood insurance in the amount of the emergency loan has been made a requirement of the program.

In addition, HUD has determined that servicers should handle unimportant litigation relating to the collection of direct loans. A provision to that effect has been included in the final rule, subject to approval of the Department of Justice.

The Department also decided to include an additional form in the final regulations. The income certification form (Appendix 8) was adopted as a guide for use by lenders/servicers, at their option, to document their determination that a homeowner has incurred a substantial reduction in income as defined in § 2700.5 (s) and is therefore eligible for assistance under the Emergency Homeowners' Relief Program.

Environmental and inflation impact statements relative to the subject amendments have been prepared and will be available for public inspection during normal business hours at the office of the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

In consideration of the foregoing, and pursuant to authority contained in Section 211 of the National Housing Act, 12 U.S.C. 1701 et seq., Chapter XV of Title 24 of the Code of Federal Regulations is added as follows:

Subpart A—General

Sec.
2700.1 Purpose.
2700.5 Definitions.
2700.10 Determination of emergency.

Subpart B—Eligibility

2700.101 Eligible properties.
2700.105 Eligible lending institutions.
2700.110 Eligible homeowners.

Subpart C—Terms of Emergency Loans

2700.201 Eligible notes and mortgages.
2700.205 Loan amount.
2700.210 Finance charges.

Subpart D—Coinsurance

2700.301 Loan applications.
2700.305 Conditions of insurance.
2700.310 Fees.
2700.315 Insurance premiums.
2700.320 Servicing.
2700.325 Termination.
2700.330 Default.
2700.335 Claims.
2700.340 Payment of insurance benefits.
2700.345 Administrative reports and examinations.
2700.350 Sale, assignment, and pledge of insured loan.

Subpart E—Direct Loans

2700.401 Participation by lending institutions.
2700.405 Application for loans.
2700.410 Transmittal of funds.
2700.415 Fees.
2700.420 Servicing.
2700.425 Default.
2700.430 Collection.
2700.435 Payment to Secretary.
2700.440 Administrative reports and examination.

Subpart F—Appendices

Appendix 1—Application for insurance or direct loan authority allocation—application for contract.
Appendix 2—Application for insured loan.
Appendix 3—Premium form.
Appendix 4—Insurance claim form.
Appendix 5—Application for direct loan.
Appendix 6—Monthly accounting of direct loans.
Appendix 7—Direct loan final accounting.
Appendix 8—Income computation form.

AUTHORITY: Sec. 108(a), 12 U.S.C. 2707, 89 Stat. 252, Pub. Law 94-50

Subpart A—General

§ 2700.1 Purpose.

The purpose of this chapter is to describe and establish a standby program, authorized by the Emergency Homeowners' Relief Act, to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income. If it becomes necessary to implement the program, HUD would provide emergency relief under the standby program by coinsuring loans made by private lenders or by making direct loans to homeowners to assist them in making their mortgage payments. In the event that this emergency program is needed, coinsurance under Subpart D is intended to be the primary method of assistance.

§ 2700.5 Definitions.

For purposes of this chapter:

(a) "Act" means the Emergency Homeowners' Relief Act.

(b) "Delinquent mortgage" means a mortgage which is at least 3 months delinquent at the time of the application for assistance under this chapter and with respect to which such assistance is to be used or has been used to make payments.

(c) "Department" and "HUD" mean the Department of Housing and Urban Development.

(d) "Direct loan" means an emergency loan made pursuant to Subpart E with funds of the United States of America, evidenced by a note payable to the United States of America.

(e) "Emergency loan" means an emergency mortgage relief loan made pursuant to this chapter.

(f) "Family" means one or more persons related by blood, marriage, or operation of law, who occupy the same dwelling unit.

(g) "Finance charge" means the cost of credit as determined in 12 CFR § 226.4, a section in "Regulation Z" of the Federal Reserve System's regulations on Truth in Lending.

(h) "Financially unable to make full mortgage payments" means that a homeowner is unable to make his monthly mortgage payment with 25 percent of his gross monthly income and that his assets (excluding the equity in his principal residence, household furniture, equipment used in his trade, clothing and automobiles) have a current value not in excess of $5,000.

(i) "Gross monthly income" means the total monthly income, before taxes and other deductions, received by all members of the homeowner's family. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, food stamp benefits, and interest and dividend payments.

(j) "Homeowner" means a mortgagor or mortgagors who are in need of mortgage assistance pursuant to this chapter.

(k) 'Investor" means a lending institution which owns a delinquent mortgage. The investor may also be the lender or servicer.

(l) "Involuntary unemployment or underemployment due to adverse economic conditions" means the status of a homeowner who is able to work full-time in work which is suitable for the homeowner on the basis of experience and training, who is available for and actively seeking such suitable work, and who is either totally unemployed or working part-time in any job, suitable or unsuitable, or working full-time in work which is unsuitable, but who has suffered a substantial reduction in income. (Registration with the local office of the state employment service will be considered one form of evidence of active search for work.)

(m) "Lender" means a lending institution which makes an emergency loan pursuant to Subpart D, or its assignee or successor in interest.

(n) "Mortgage" means any mortgage, deed of trust, executory land sales contract, conditional sales contract, or other form of security and the obligation secured thereby on a one- to four-family dwelling which is either real estate or a mobile home. It includes a mortgage on a condominium unit and a security interest in stock in a housing cooperative.

(o) "Monthly mortgage payment" means the monthly amount of principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums due to be paid under a homeowner's mortgage(s).

(p) "Secretary" means the Secretary of Housing and Urban Development.

(q) "Servicer" means a lending institution which services an emergency loan made by the Secretary pursuant to Subpart E.

(r) "Servicing institution" means the lending institution that services the delinquent mortgage. The servicing institution may also be the lender or servicer.

(s) "Substantial reduction in income" means that the homeowner's average gross monthly income during the period the homeowner is in arrears on the delinquent mortgage is less than 80 percent of his average gross monthly income during the 24 month period preceding the beginning of his involuntary unemployment or underemployment.

§ 2700.10 Determination of emergency.

(a) The Department has constructed a nationwide composite index of delinquencies of 60 days or more (including loans in the process of foreclosure) for mortgage loans on one- to four-family dwellings. It is a quarterly index which is based on a weighted average of delinquency rates published by: the Veterans Administration, the National Association of Mutual Savings Banks, the Mortgage Bankers Association of America, the American Life Insurance Association, and the U.S. League of Savings Associations. The rates are weighted according to the percentage of the long-term mortgage loans, held by the respective lender group represented by the data in each individual series at the end of each quarter.

(b) If the composite rate of delinquencies should reach 1.20 percent the Secretary will, after consultation with the Federal agencies that regulate institutions which make home mortgage loans, make a finding and determination as to whether the Act should be implemented. If the determination of the Secretary is not to implement the Act, and if the composite rate of delinquencies should continue at a level of 1.20 percent or above, the Secretary shall continue to consult with such agencies and shall issue such a finding and determination at the end of each 30 day period during which the rate is at or above the 1.20 percent level.

(c) If the Emergency Homeowners' Relief Program is activated pursuant to paragraph (b) of this section, the Secretary shall publish a notice thereof in the Federal Register, inviting lending institutions qualified under § 2700.105 that are interested in participating in the program to submit a request for an insurance or direct loan authority allocation in the form specified in Appendix 1. Such request shall also serve as an application for a contract of insurance pursuant to Subpart D, or for a contract to act as the Secretary's servicer pursuant to Subpart E, depending on the type of allocation requested. The allocation request may be based upon anticipated applications with respect to mortgages held by other institutions. In such a case, the requesting institution should indicate the basis for its estimate of the number of such mortgages and the amount of assistance which will be sought pursuant thereto. An allocation of insurance authority shall constitute acceptance by the Secretary of the lending institution's application for a contract of insurance, the terms of which are embodied in this chapter. Similarly, an allocation of direct loan authority shall constitute acceptance by the Secretary of the institution's application for a contract to act as the Secretary's servicer, the terms of which are embodied in this chapter.

(d) If, after the program is activited, the Secretary determines that the emergency conditions which led to the activation of the program have abated, no new emergency loans may be made. Furthermore, if an allocation is not used as the applicant represented that it would be used, all or part of the unused allocation may be rescinded by the Secretary. Moreover, no emergency loans may be made after June 30, 1976.

Subpart B—Eligibility

§ 2700.101 Eligible properties.

In order to qualify for an emergency loan under Subpart D or Subpart E of this part, the mortgaged property must:

(a) be the principal residence of the homeowner;

(b) be subject to a delinquent mortgage, as defined in § 2700.5, but not subject to liens having a total outstanding principal balance at the time of filing of the application for an emergency loan under this chapter in excess of $55,000, or such other amount as approved by the Secretary; and

(c) have flood insurance, pursuant to the National Flood Insurance Program, in an amount equal to at least the initial principal amount of the emergency loan, if the property is located in an area that has been identified by the Secretary at least one year before the origination of the emergency loan as an area having special flood hazards.

§ 2700.105 Eligible lending institutions.

(a) In order to participate in the Emergency Homeowners' Relief Program as a lender or servicer, a lending institution must be approved as a mortgagee pursuant to §§ 203.1 through 203.4 (except § 203.4(e)) of this title.

(b) Approval of a lending institution pursuant to paragraph (a) of this sec-

tion may be withdrawn at any time by notice from the Secretary by reason of:

(1) the transfer of an insured loan to a nonapproved entity;

(2) the failure of a lending institution to submit the required annual audit report of its financial condition within 75 days of the close of its fiscal year; or

(3) the failure of a lending institution to comply with the regulations of this chapter.

Withdrawal of a lending institution's approval shall not affect the insurance on the loans accepted for insurance.

(c) All approved lending institutions are responsible for servicing of emergency loans in accordance with acceptable mortgage practices of prudent lending institutions.

§ 2700.110 Eligible homeowners.

In order to qualify for an emergency loan under Subpart D or Subpart E the homeowner must:

(a) be at least 3 months in arrears in his payments on the delinquent mortgage;

(b) have incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions;

(c) be financially unable to make full mortgage payments on his principal residence;

(d) have a reasonable prospect of being able to make the adjustments necessary for a full resumption of mortgage payments on the delinquent mortgage the month after the last advance under the emergency loan and for the repayment of the emergency loan pursuant to the terms of the note taken in connection with that loan (a favorable employment and credit history prior to the beginning of his current unemployment or underemployment will be considered one form of evidence of the homeowner having such a prospect);

(e) have not received another emergency loan pursuant to this chapter;

(f) have been notified that the investor intends to foreclose; and

(g) sign the application to be sent to the Secretary, as specified in Appendices 2 and 5 to this Part, which certifies that to the best of his knowledge the information in the application which the homeowner provided is accurate, that circumstances make it probable that there would be a foreclosure if emergency mortgage relief were not given, and that he is in need of such relief.

Subpart C—Terms of Emergency Loans

§ 2700.201 Eligible notes and mortgages.

(a) The note, mortgage and lending agreement, if any, in connection with an emergency loan pursuant to Subpart D or E of this part shall be in a form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

(b) The note evidencing the emergency loan shall bear the signature of the homeowner as maker, shall be valid and enforceable against him, and shall be complete and regular on its face.

(c) Loans shall be secured by an additional mortgage upon the property which shall be recorded at the time of the closing of the loan.

(d) The note, or a separate lending agreement which may be incorporated by reference in the note, shall provide for the disbursement of the loan proceeds within 12 months. However, the note or lending agreement shall provide that if at any time before the last disbursement under the emergency loan is made, the homeowner's average gross monthly income during the preceding 3 months has increased or decreased by 20 percent or more in relation to the gross monthly income of the homeowner at the time the loan amount was established, the homeowner must notify the lender or servicer within 30 days. In such a case, the emergency loan shall be recast with respect to the amount of principal and interest on the basis of the homeowner's new income in such a way as to satisfy the requirements of § 2700.205(a).

(e) The maximum first disbursement of the loan proceeds may be in an amount equal to the loan amount as determined under § 2700.205 divided by 12, times the number of months, not exceeding 12, that the delinquent mortgage is in arrears.

(f) The note shall provide for payments to principal in equal installments falling due monthly beginning no later than 12 months following the date of the last disbursement of loan proceeds.

(g) The note shall provide for payments of interest earned during the disbursement period and interest earned thereafter beginning no later than 6 months following the date of the last disbursement under the loan.

(h) The note shall contain a provision for acceleration of maturity, at the option of the holder, in the event of default on the emergency loan, as defined in § 2700.330(b) and § 2700.425(b).

(i) The maximum permissible maturity of the note is 10 years from the date of the note.

§ 2700.205 Loan amount.

(a) Subject to the limitation specified in paragraph (b) of this section, the principal amount of the loan, exclusive of finance charges, made under Subparts D and E of this part shall be equal to the lesser of:

(1) 12 times $250; or

(2) the sum of (i) 12 times the homeowner's monthly mortgage payment after 25 percent of his monthly income has been subtracted therefrom, and (ii) the fees allowed under §§ 2700.310(a) and 2700.415(a).

(b) The lender or servicer shall not approve an emergency loan when the outstanding balance, including delinquent interest, of the delinquent mortgage when added to the other liens against the mortgaged property, plus the maximum loan which may be advanced to the homeowner pursuant to this chapter, exceeds the value of the mortgaged property. (In determining the value of the property, the lender or servicer may rely upon previously obtained appraisals or other determinations of value of the property and need not obtain a current appraisal.)

§ 2700.210 Finance charges.

The maximum permissible finance charge, exclusive of fees and charges as provided in §§ 2700.310, and 2700.415, which may directly or indirectly be paid to or collected by the lender or the servicer in connection with an emergency loan transaction shall not exceed simple interest on the outstanding principal balance at the annual interest rate for FHA-insured home mortgages as specified in § 203.20 of this title at the time of the closing of the loan. No points or discounts of any kind may be assessed or collected in connection with an emergency loan transaction.

Subpart D—Coinsurance

§ 2700.301 Loan applications.

(a) Lending institutions which have contracts of insurance pursuant to § 2700.10(c) and this subpart are authorized to accept, process, and approve applications for emergency loans under this subpart. That authority includes making determinations relating to eligibility of the emergency loan, the homeowner, and the property under the provisions of this chapter.

(b) A lender may make an emergency loan on the terms specified in Subpart C if it is satisfied that the application meets all of the relevant requirements of this chapter. The lender shall prepare a note, loan agreement, if any, and mortgage as required by Subpart C of this part which it shall record upon the execution of those documents.

(c) On the last working day of the month during which a loan is closed, the lender shall submit to the Secretary an application for an insured loan in the form specified in Appendix 2 of this part, signed by the lender and homeowner, which certifies that: the lender, homeowner, and property meet the eligibility requirements of Subpart B of this part, that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first disbursement of the principal amount of the emergency loan has been paid or credited to the homeowner's account with the servicing institution.

§ 2700.305 Conditions of insurance.

When the requirements of this subpart have been complied with, the lender's insurance coverage under its insurance contract will apply to a particular loan as of the date of closing, if the lender has not exceeded the insurance authority allocation which the Secretary has given the lender pursuant to § 2700.10(c). When the investor is the lender, the insurance of the emergency loan pursu-

ant to Subpart D shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan, to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the prior approval of the Secretary is obtained. From the effective date of the loan until the termination of the insurance with respect to that loan, the Secretary and the lender shall be bound by the provisions of this chapter as they relate to the loan.

§ 2700.310 Fees.

(a) The lender may collect from the homeowner during the year following the origination of the emergency loan the following fees or charges in conjunction with providing the emergency loan:

(1) A charge to compensate the lender for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(2) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan;

(3) An amount equal to the annual premium for flood insurance required by § 2700.101(c) (the lender shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual mortgage insurance premium required under § 2700.315.

(b) Subsequent to the year following the origination of the emergency loan and up to the termination of insurance under § 2700.325, the lender may collect from the homeowner the following fees and charges in connection with the emergency loan: an amount equal to the mortgage insurance premium required under § 2700.315.

§ 2700.315 Insurance premium.

(a) On March 1 of each year the insured shall pay to the Secretary an insurance premium equal to one-half of 1 percent of the average outstanding balance, during the previous calendar year, of all the emergency loans which the lender held during that period pursuant to this part.

(b) With respect to the payment provided for in paragraph (a) of this section, the lender shall submit a breakdown of the premium in the form prescribed in Appendix 3 to this part.

(c) Any adjustments of the insurance premium already paid in connection with an emergency loan the mortgage on which is transferred between insureds, shall be made by the insureds, except that any unpaid installments of the insurance premium shall be paid by the purchasing insured.

(d) There shall be no refund or abatement of any portion of the insurance premium except when the premium relates to a loan found to be ineligible. However, no refund shall be made unless a claim is denied by the Secretary or the ineligibility is reported by the insured promptly upon discovery and an application for refund is made. In no event shall charges be refunded when the application for refund is not made until after the loan is paid in full.

§ 2700.320 Servicing.

Servicing functions during the period that the loan is coinsured shall be performed by the lender or the servicing institution acting for the lender. The lender is responsible to the Secretary for proper servicing, even though the actual servicing is not performed by the lender.

§ 2700.325 Termination.

The insurance coverage and the insured lender's obligation to remit insurance premiums with respect to an emergency loan shall be terminated upon whichever of the following first occurs:

(a) the loan is paid in full;

(b) the lender acquires the property securing the loan and notifies the Secretary that no claim for insurance benefits has been or will be made;

(c) the homeowner and the lender jointly request termination; or

(d) the lender files an insurance claim pursuant to § 2700.335.

§ 2700.330 Default.

(a) If the homeowner fails to make a scheduled payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the emergency loan, if the delinquency remains uncorrected;

(2) The date the mortgaged property is sold before full repayment of the emergency loan; and

(3) The date a lien superior to that securing the emergency loan is foreclosed.

(c) If after default and prior to the foreclosure of the mortgage securing the emergency loan, the homeowner cures the default, the loan shall be treated as if a default had not occurred, provided the homeowner pays the lender for any expenses the lender incurred in connection with the lender's attempt to collect on the loan.

§ 2700.335 Claims.

(a) Claims for reimbursement for loss on an emergency loan shall be made on the form specified in Appendix 4 and executed by a duly qualified officer or agent of the insured. The claim shall be accompanied by the lender's complete credit and collection file, or a copy of such file certified by the lender to be a complete and exact copy of the file retained by the lender pertaining to the transaction.

(b) Claims may be filed upon the homeowner's default on the emergency loan.

(c) When the homeowner defaults on the emergency loan, the lender may elect to (1) proceed against the mortgage on the loan or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or (2) make a claim under its insurance contract without proceeding against the security or the note.

(d) Claims shall be filed on the last working day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency loan in which case no later than 1 year after the date of default, or such other time period as the Secretary approves. If at the time of default or at any time subsequent to the default a person primarily or secondarily liable for the repayment of a loan is a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the lender shall refrain from instituting foreclosure proceedings during the period which he is in military service and 3 months thereafter and that period shall be excluded in computing the time within which a claim for insurance benefits under this subpart may be made.

(e) An insured lender will be reimbursed for its losses on loans made in accordance with this chapter, in an amount equal to 90 percent of the sum of the following:

(1) The unpaid principal amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of claim;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses;

(4) Attorney's fees actually paid not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note, or (ii) 15 percent of the balance due on the note; and

(5) Up to $25 for expenses actually incurred in recording assignments of mortgages to the United States of America.

(f) The note and any mortgage held or judgment taken by the claimant must be assigned in its entirety and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall be likewise assigned to the United States of America. The assignment shall be in the form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

§ 2700.340 Payment of insurance benefits.

Upon receipt of a claim for insurance benefits which meets the requirements of § 2700.335 and the other provisions of this chapter, the Secretary shall make a payment of insurance benefits in cash to the claimant in an amount equal to the amount specified in § 2700.335(e), subject to the following limitation: the aggregate amount of insurance benefits payable by the Secretary to any lender shall not exceed 40 percent of the aggregate amount advanced by such lender pursuant to this subpart.

§ 2700.345 Administrative reports and examination.

At any time, the Secretary may call upon an insured lender for such reports as are deemed to be necessary in connection with the regulations of this chapter and may inspect the books or accounts of the lender as they pertain to the loans which are coinsured pursuant to this subpart.

§ 2700.350 Sale, assignment and pledge of insured loan.

(a) No lender may sell or otherwise dispose of any insured loan except pursuant to this section.

(b) An insured loan may be sold to a lending institution eligible under § 2700.105. Upon such sale, both the seller and the buyer shall notify the Secretary within 30 days.

(c) When an insured loan is sold to another lending institution eligible under § 2700.105, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance under this part, and the seller shall be released from its obligations under the contract of insurance.

(d) An assignment, pledge, or transfer of an insured loan not constituting an actual transfer of legal title, may be made by the lender to another eligible lending institution, subject to the following conditions:

(1) The assignor, pledgor or transferor shall remain the lender for purposes of the contract of insurance under this part.

(2) The Secretary shall have no obligation to recognize or deal with any party other than that lender with respect to the rights, benefits and obligations of the lender under the contract of insurance.

Notice to or approval of the Secretary is not required in connection with assignments, pledges, or transfers pursuant to this subsection.

Subpart E—Direct Loans

§ 2700.401 Participation by lending institutions.

A lending institution eligible under § 2700.105, which has a contract to act as the Secretary's servicer pursuant to § 2700.10(c) and this subpart, is authorized to accept, process and approve applications for direct loans under this subpart in the form specified in Appendix 5 to this part. That authority includes making determinations relating to the eligibility of the direct loan, homeowner, and property, pursuant to the provisions of this chapter. Direct loans, however, may only be made pursuant to this part when the investor cannot make an emergency loan under Subpart D of this part for one of the following reasons:

(a) the investor has a liquidity problem and cannot obtain advances as authorized by Section 113 of the Emergency Homeowners' Relief Act or by Section 10, 10b and 11 of the Federal Home Loan Bank Act; or

(b) other good reason, as determined by the Secretary.

§ 2700.405 Application for loan.

The agreement to process an application for a direct loan shall constitute an acceptance of the lending institution of the responsibility to act as the servicer of the Secretary with respect to that particular application. The servicer shall make a loan on behalf of the Secretary on the terms specified in Subpart C of this part if it is satisfied that the application meets all of the requirements of this chapter. The servicer shall prepare a note, loan agreement, if any, and mortgage in the form specified in § 2700.201. The servicer shall record the mortgage upon the closing of the loan. The servicer shall make the first advance of the loan, as provided for in § 2700.201(e), using its own funds. On the last working day of the month during which the loan is closed, the servicer shall submit to the Secretary a copy of the application signed by the agent and the homeowner certifying: that the agent, homeowner, and property qualify under Subpart B of this part; that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first advance of the emergency loan has been paid or credited to the homeowner's account with the servicing institution.

§ 2700.410 Transmittal of funds.

When the requirements of this part have been complied with, the Secretary will transmit to the servicer, pursuant to the monthly accounting prescribed in § 2700.420, the emergency loan proceeds as long as the agent has not exceeded the lending authority allocation which the Secretary has given the servicer pursuant to § 2700.10(c). When the investor is the servicer, the transmittal of funds under this section shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan, to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the Secretary's prior approval is obtained. From the processing of the application until the satisfaction of the debt or the final accounting pursuant to § 2700.435, the Secretary and the servicer shall be bound by the provisions of this chapter with respect to a particular direct loan.

§ 2700.415 Fees.

(a) The servicer may collect from the homeowner during the year following the origination of the emergency loan the following fees or charges in conjunction with providing the emergency loan:

(1) A charge to compensate the servicer for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(2) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan;

(3) An amount equal to the annual premium for flood insurance required by § 2700.101(c) (the servicer shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual premium required under § 2700.420(d).

(b) Subsequent to the year following the origination of the emergency loan and up to the final accounting on the loan under § 2700.435, the servicer may collect from the homeowner the following fees and charges: an amount equal to premium required under § 2700.420(d).

§ 2700.420 Servicing.

(a) Servicing functions during the period that the loan is outstanding shall be performed by the servicer.

(b) On the same day each month, while the servicer is servicing direct loans for the Secretary, the servicer shall submit a monthly accounting in the form prescribed in Appendix 6 to this part for all of the direct loans which it services. The accounting shall list the amount of funds which it advanced under direct loans during the previous calendar month. In addition, the accounting shall list the amount paid to the servicer under the direct loans serviced by the servicer during the previous calendar month.

(c) If, pursuant to the monthly accounting, the amount HUD owes the servicer exceeds the amount the servicer owes HUD, the Secretary shall remit the difference to the servicer as long as the Secretary finds the accounting in order. If, pursuant to the monthly accounting, the amount the servicer owes HUD exceeds the amount HUD owes the servicer, the servicer shall remit the difference when he submits the monthly accounting to the Secretary.

(d) In March of each year, the servicer, in addition to making its monthly accounting, shall pay to the Secretary a premium equal to one half of 1 percent of the average outstanding balance during the previous calendar year of all the direct loans it serviced during that period. That payment shall be accompanied by a breakdown of the premium in the form prescribed in Appendix 3 to this part.

§ 2700.425 Default.

(a) If the homeowner fails to make any payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the emergency loan, if the delinquency remains uncorrected;

(2) The date the mortgaged property is sold before full repayment of the emergency loan; and

(3) The date a lien superior to that securing the emergency loan is foreclosed

(c) If after default and prior to the foreclosure of the mortgage securing the emergency loan, the homeowner cures the default, the loan shall be treated as if the default had not occurred, provided the homeowner pays the servicer for any expenses the servicer incurred in connection with the servicer's attempt to collect on the loan.

§ 2700.430 Collection.

(a) If a homeowner defaults on a direct loan, the servicer shall elect to (1) proceed against the mortgage securing the loan or attempt to collect on the note and then to make an accounting and payment to the Secretary, as provided in § 2700.435, or (2) make an accounting and payment to the Secretary without proceeding against the mortgage or the note. Any collection-related litigation involving novel or important matters, as determined by the Secretary, shall be handled by the United States Attorney. In order to make such determinations, a copy of all documents filed with a court in connection with such litigation shall be sent to the Office of General Counsel, Room 10214, 451 7th Street, SW., Washington, D.C. 20410. The Department will inform the servicer if any litigation it is pursuing with respect to direct loans is deemed to involve novel or important matters.

(b) If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan in a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the servicer shall refrain from instituting foreclosure proceedings against the homeowner during the period he is in the military service and 3 months thereafter and that period shall be excluded in computing the time within which an accounting and payment are to be made pursuant to § 2700.435.

§ 2700.435 Payment to the Secretary.

(a) Before the expiration of the period of 90 days after the date of default, unless the servicer proceeds against the mortgage in which case before the expiration of the period of one year after the date of default, or such other time period as the Secretary approves, the servicer shall transmit to the Secretary on the last working day of the month: (1) the complete credit and collection file pertaining to the emergency loan; and (2) the amount recovered less the sum of (i) uncollected court costs, including fees paid for issuing, serving and filing summonses and (ii) attorney's fees actually paid, not exceeding the lesser of (A) 25 percent of the amount collected by the attorney of the defaulted note, or (B) 15 percent of the balance due on the note.

(b) At the same time the servicer makes the transmittal as provided in paragraph (a) of this section, it shall share the loss on the loan by making a payment to the Secretary in an amount equal to 10 percent of the sum of the following:

(1) The unpaid principal amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of the final accounting;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses; and

(4) Attorney's fees actually paid, not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note or (ii) 15 percent of the balance due on the note.

Accompanying that payment shall be a final accounting of the loan in the form specified in Appendix 7 to this part and the note, mortgage securing the loan, and any judgment taken.

(c) Notwithstanding the provisions of paragraph (b) of this section, in the event that aggregate loss borne by the Secretary reaches 40 percent of the aggregate amount advanced by the servicer on behalf of the Secretary under this subpart, the servicer shall bear the burden of any loss in excess of that 40 percent by making an appropriate payment to the Secretary within the time period specified in paragraph (a) of this section.

§ 2700.440 Administrative reports and examinations.

The Secretary may at any time call for a report from any servicer on the delinquency status of the loans serviced by the servicer on behalf of the Secretary or call for such reports as may be deemed to be necessary in connection with the provisions of this chapter, or the Secretary may inspect the books or accounts of the servicer as they pertain to those loans.

Subpart F—Appendices

Appendix 1 - Application for Insurance or Direct Loan Authority Allocation - Application for Contract

Page 40

HUD FORM NO. EHRA-
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT APPLICATION FOR INSURANCE OR DIRECT LOAN AUTHORITY ALLOCATION

Name and Address of Lending Institution:

Date of Application:

Mortgagee Reference Number:

Amount of Allocation Requested (See Note 2) $

Check one: ☐ Insurance authority under 24 CFR, Part 2700, Subpart D.

☐ Direct loan authority under 24 CFR, Part 2700, Subpart E.

FOR OFFICIAL USE ONLY

Amount of Allocation Approved: $

Authorized by *Date*

Send to:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

TOTAL MORTGAGE LOANS HELD BY MORTGAGEE 1/	
Amount of loans ($ in thousands)	$
Number of loans	
MORTGAGE LOANS IN PORTFOLIO WHICH ARE DELINQUENT 90 DAYS OR MORE:	
Amount of loans ($ in thousands)	$
Number of loans	
MORTGAGE LOANS FOR WHICH ALLOCATION IS REQUESTED 2/	
Loans held in Applicant's Name:	
Amount of loans ($ in thousands)	$
Number of loans	
Loans not held in Applicant's Name:	
Amount of loans ($ in thousands)	$
Number of loans	

1/ Includes all mortgage loans held whether serviced or not.
2/ The request for an allocation must be in full compliance with 24 CFR, Section 2700.10. (Request for allocation with respect to delinquent mortgages which the applicant does not hold should be accompanied by any documentation demonstrating the need for the allocation.)
NOTE: For the purpose of this form, mortgage loan means only those loans secured by mortgages as defined in 24 CFR, Section 2700.5

An application for an insurance authority allocation shall constitute an application for a contract of insurance pursuant to 24 CFR, Part 2700, Subpart D. An allocation of insurance authority allocation shall constitute acceptance by the Secretary of the applicant's application for a contract of insurance, the terms of which are embodied in 24 CFR, Chapter XV.
An application for direct loan authority allocation shall constitute an application for a contract to act as the Secretary's servicer pursuant to 24 CFR, Part 2700, Subpart E. An allocation of direct loan authority shall constitute acceptance by the Secretary of the applicant's application for a contract to act as the Secretary's servicer, the terms of which are embodied in 24 CFR, Chapter XV.

APPLICANT'S CERTIFICATION: The undersigned applicant certifies that to the best of his knowledge all statements in this application are true, correct and complete.

Signature/Title of Applicant *Date*

PLEASE ENCLOSE A SELF ADDRESSED ENVELOPE WITH THIS APPLICATION FORM

Appendix 2 - Application for Insured Loan *Page 41*

HUD FORM NO. EHRA -2
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR INSURED LOAN

Name and Address of Lending Institution:	*Date of Application:*
	Date of Allocation Approval:
	Mortgagee Reference Number:

Name and Address of Homeowner Requesting Relief (1):	HOMEOWNER'S INCOME & ASSETS PROFILE (2):
	Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment $
	Average gross monthly income during period of delinquency $
	Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles) $

Monthly mortgage payment (Principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums) $	EMERGENCY LOAN INFORMATION (3):
Total outstanding principal balance of all liens on the property $	*Date of initial disbursement of principal amount*
Amount of interest in arrears $	*Amount of initial disbursement* $
Total amount in arrears $	*Amount of subsequent monthly emergency loan disbursements* $
Number of months Delinquent	*Total amount of emergency loan* $
Date of Notice of Intent to Foreclose	*Lending Institution's insurance authority allocation (in thousands)* $
Type of Mortgage in Default (Check one): ☐ *First Mortgage* ☐ *Other (Specify)*	*Total insured loans made to date (include total amount of emergency loan listed above — in thousands)* $

NOTES:
(1) The Homeowner must meet all eligibility requirements contained in 24 CFR, Section 2700.110.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j). (Also, see Appendix 8.)
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2700, Subpart C.

SEND TO:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

WARNING

Section 1001 of the U. S. Criminal Code (18 U. S. C.) provides in part: ..*"Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully ... makes any false ..., or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."*

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that to the best of his knowledge circumstances make it probable that there will be a foreclosure without an emergency loan pursuant to 24 CFR, Chapter XV and that he is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions.

_____
Signature of Homeowner

_____
Date

LENDING INSTITUTION'S CERTIFICATION

The undersigned lending institution certifies that to the best of its knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned lending institution certifies that to the best of its knowledge the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of his mortgage payments. The undersigned lending institution also certifies that it has determined on _____ *THAT if the emergency loan were not granted, the investor would foreclose.*
(date)

_____
Signature/Title of Official of Lending Institution

_____
Date

NOTE: The lending institution may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the lending institution's file for submission to HUD with any claim made on the insured loan.

Appendix 3 - Premium Form *Page 42*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

COMPUTATION OF PREMIUM DUE HUD

☐ COINSURED LOAN ☐ DIRECT LOAN

1. NAME AND ADDRESS OF LENDER'S/SERVICER'S

2. MORTGAGEE REFERENCE NUMBER	3. ANNUAL PREMIUM PERIOD
☐☐☐☐ ☐☐☐ ☐☐	_____ (Month and Year) TO _____ (Month and Year)

4. TOTAL AMOUNT OF LOAN PRINCIPAL OUTSTANDING END OF EACH MONTH OF THE PREMIUM PERIOD

JANUARY	FEBRUARY	MARCH	APRIL
$	$	$	$
MAY	JUNE	JULY	AUGUST
$	$	$	$
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
$	$	$	$

5. ANNUAL PREMIUM COMPUTATION

a. Sum of Amounts Shown in Block 4	$
b. Average Loans Outstanding *(Line 5a ÷ 12)*	
c. Premium Remittance Enclosed *(Line 5b. X .005)*	$

WARNING

Section 1001 of the U. S. Criminal Code *(18 U.S.C.)* provides in part: "Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

6. CERTIFICATION

The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis for the computation of the annual premiums due for the loans insured by HUD or emergency mortgage relief payments serviced by the servicer identified above, and the information shown herein is true and correct to the best of his knowledge and belief.

DATE	TITLE OF OFFICIAL OF THE LENDER/SERVICER	SIGNATURE

HUD-326 (12-75)

Appendix 4 - Insurance Claim Form *Page 43*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

CLAIM ON DEFAULTED COINSURED LOAN

1. NAME AND ADDRESS *(Include ZIP Code)* OF LENDER	MORTGAGEE REFERENCE NUMBER
	☐☐☐☐☐ ☐☐☐ ☐☐

2. AMOUNT OF CLAIM	3. DATE OF CLAIM	4. DATE OF DEFAULT	5. DATE OF FORECLOSURE

6. DATES OF MILITARY SERVICE *(If applicable under 24 CFR § 2700.335(e))*	7. FOR HUD USE ONLY CLAIM NUMBER

8. PROPERTY LOCATION	9. NAME AND ADDRESS OF HOMEOWNER

10. COMPUTATION OF CLAIM AMOUNT

a. Unpaid Principal Balance of Loan	$	
b. Uncollected Interest to Date of Claim		
c. Sum of Principal and Interest Due *(a + b)*		
d. Less: Recoveries		
e. Net Loan Balance Due *(c − d)*		$
f. Court Costs		
g. Attorney s Fees *(as limited by 24 CFR § 2700.335(e))*		
h. Recording Expenses *(not to exceed $25)*		
i. Total Expenses *(f + g + h)*		
j. Total Loss on Loan *(e + i)*		
k. 90% of Loss on Loan *(.9 x j)*		
l. Aggregate Insurance Benefits Received to Date		
m. 40% of Aggregate Amount of Funds Advanced pursuant to 24 CFR, Part 2700.- Subpart D		
n. Amount of Claim *(the lesser of k or (m − l))*		$

WARNING

Section 1001 of the U. S. Criminal Code *(18 U.S.C.)* provides in part: "Whoever, in any matter within the jurisdiction of any department... of the United States knowingly and willfully ...makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

CERTIFICATION

The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the claim on the insured loan for the property and homeowner identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

DATE	TITLE OF OFFICIAL OF THE LENDER	SIGNATURE

HUD-327 (12-75)

HUD FORM NO. 8HKA -5
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR DIRECT LOAN

Name and Address of Lending Institution:	*Date of Application:*
	Date of Allocation Approval:
	Mortgagee Reference Number

Name and Address of Homeowner Requesting Relief (1):	HOMEOWNER'S INCOME & ASSETS PROFILE (2):	
	Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment	$
	Average gross monthly income during period of delinquency	$
Monthly mortgage payment (principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums) $	*Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles)*	$
Total outstanding principal balance of all liens on the property $	EMERGENCY LOAN INFORMATION (3):	
Amount of interest in arrears $	*Date of initial disbursement of principal amount*	
Total amount in arrears $	*Amount of initial disbursement*	$
Number of months delinquent	*Amount of subsequent monthly emergency loan disbursements*	$
Date of Notice of Intent to Foreclose	*Total amount of emergency loan*	$
Type of Mortgage in Default (Check one): ☐ *First Mortgage* ☐ *Other (Specify)*	*Lending Institution's insurance authority allocation (in thousands)*	$
	Total direct loans made to date (include total amount of emergency loan listed above - - - - in thousands)	$

NOTES: (1) The Homeowner must meet all eligibility requirements contained in 24 CFR, Section 2700.110.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j). (Also, see Appendix 8.)
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2700, Subpart C.

SEND TO:
U. S. Department of Housing and Urban Development
Room 6262
451 Seventh Street, S. W.
Washington, D. C. 20410

WARNING

Section 1001 of the U. S. Criminal Code (18 U. S. C.) provides in part: . . . *"Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."*

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that to the best of his knowledge circumstances make it probable that there will be a foreclosure without an emergency loan pursuant to 24 CFR, Chapter XV and that he is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions.

Signature of Homeowner

Date: _____

LENDING INSTITUTION'S CERTIFICATION

The undersigned lending institution certifies that to the best of its knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned lending institution certifies that to the best of its knowledge the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of his mortgage payments. The undersigned lending institution also certifies that it has determined on _____ *(Date) THAT if the emergency loan were not granted, the investor would foreclose.*

Signature/Title of Official of Lending Institution

Date: _____

NOTE: The lending institution may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the lending institution's file for submission to HUD with final accounting made in connection with the direct loan.

Appendix 6 - Monthly Accounting of Direct Loans *Page 45*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

MONTHLY ACCOUNTING OF DIRECT LOAN ACCOUNT

1. SERVICER'S NAME, ADDRESS AND ZIP CODE	2. MORTGAGEE REFERENCE NUMBER	
		4. NUMBER OF LOANS OUTSTANDING:
3. FOR MONTH OF		5. ACCRUED INTEREST *(Mar., June, Sept., & Dec. reports only)*

6. ANALYSIS OF AGGREGATE DIRECT LOAN PRINCIPAL ACCOUNT

a. Direct Loan Principal Balance Beginning of Month		$
b. Direct Loan Disbursement During the Month		
c. Total		$
d. Less: (1) Loan Principal Repayments During Month	$	
(2) Transfers During Month of Accountability for Loans *(Principal Amount Only)*		
e. Direct Loan Principal Balance End of Month		$

7. COMPUTATION OF AMOUNTS DUE

	AMOUNT DUE HUD (1)	AMOUNT DUE SERVICER (2)
a. Net Principal Collections and Disbursements		
(1) If in Block 6, Line b is greater than Line d(1)		$
(2) If in Block 6, Line d(1) is greater than Line b	$	
b. Interest Included in Repayments		
c. Totals	$	$
d. (1) Amount Due HUD *(If Column 1 is greater)*		
(2) Amount Due Servicer *(If Column 2 is greater)*		$

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

8. CERTIFICATION: The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the monthly accounting on the direct loans serviced by the servicer identified above, the information shown herein is true and correct and is documented as required.

Date *Signature and Title of Official of the Servicer*

HUD-328 (12-75)

Appendix 7 - Direct Loan Final Accounting *Page 46*

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FINANCE AND ACCOUNTING
EMERGENCY HOMEOWNERS' RELIEF PROGRAM

TRANSFER OF ACCOUNTABILITY FOR DIRECT LOAN AND ACCRUED INTEREST

1. SERVICER'S NAME, ADDRESS AND ZIP CODE

3. *(HUD USE ONLY)*
Transfer No. _____

4. DATE OF DEFAULT

5. DATE OF FORECLOSURE *(If applicable)*

2. MORTGAGEE REFERENCE NUMBER

6. DATES OF MILITARY SERVICE *(If applicable under 24 CFR § 2700.430(b))*

7. HOMEOWNER'S NAME, ADDRESS AND ZIP CODE

8. PROPERTY LOCATION

SCHEDULE I – COMPUTATION OF SERVICER'S SHARE OF LOSS ON LOAN

A. Unpaid Principal . . . . . $ _____
B. Less: Recoveries . . . . . _____
C. Net Amount . . . . . _____
D. Uncollected Interest . . . . . _____
E. Uncollected Court Costs *(Includes fees paid for issuing, servicing and filing summonses)* . . . . . _____
F. Attorney's Fees *(Schedule III, Line A)* . . . . _____
G. Sum of Lines C through F . . . . . _____
H. 90% of Amount on Line G . . . . . _____
I. Servicer's Share of Loss *(Line G – H)* . . . . . $ _____

SCHEDULE II – COMPUTATION OF CEILING ON LOSS BEARABLE BY HUD

A. Aggregate Losses Borne by HUD before this Claim . . . . . $ _____
B. 90% of Loss on Loan *(Schedule I, Line H)* . _____
C. Sum of Lines A and B . . . . . _____
D. 40% of Aggregate Amount of Funds Advanced: Pursuant to 24 CFR, Part 2700 Subpart E . . . . . _____
E. Additional Servicer's Loss *(Line C – D)[Not to be below zero)* . . . . . $ _____

SCHEDULE III – COMPUTATION OF ATTORNEY'S FEES

A. Attorney's Fees *(not in excess of)* . . . . . $ _____
1. 25% of Amount Collected by Attorney . . _____
2. 15% of Unpaid Principal Balance . . . . . _____

SCHEDULE IV – COMPUTATION OF REMITTANCE DUE HUD

A. Servicer's Share of Loss on Loan *(Schedule I, Line I)* . . . . . $ _____

B. Additional Servicer's Loss *(Schedule II, Line E)* . . . . . _____

C. Recoveries *(Not previously reported)* . . . . . _____

D. Total $ _____

E. Less:

1. Uncollected Court Costs . . $ _____
2. Attorney's Fees *(Sched. III)* _____
3. Total $ _____

F. Remittance Due HUD . . . . . $ _____

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

CERTIFICATION: The undersigned hereby certifies that to the best of his knowledge the amounts listed above comprise the complete basis of the final settlement on the direct loan for the property and homeowner identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

_____ *Date*

_____ *Signature and Title of Official of the Servicer*

HUD–329 (12–75)

Appendix 8 - Income Computation Form *Page 47*

HUD FORM NO. EHRA-8
December 1975

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

OMB NO.
Approval Expires

EMERGENCY HOMEOWNERS' RELIEF PROGRAM
INCOME CERTIFICATION FORM

Lending Institution (Name, Address and ZIP Code):	Property Address:

Homeowner:

Husband	Age:
Wife:	Age:

Married: ☐ YES ☐ NO	Number of Years Married:	Number of Dependents:	Ages:

EMPLOYMENT

	OCCUPATION	NAME AND ADDRESS OF EMPLOYER	Average Number of Hours Worked per Week	Number of Years Worked
HUSBAND				
Present Employer				
Last Employer				
Part Time Employer				
WIFE				
Present Employer				
Last Employer				
Part Time Employer				

A. AVERAGE GROSS MONTHLY INCOME 24 MONTHS PRIOR TO INVOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT

Show income data rounded to the nearest dollar.	HUSBAND	WIFE	DEPENDENTS	OTHER	TOTAL
Gross Monthly Wages					
Social Security Payments					
Retirement Benefits					
Military & Veterans Disability Payments					
Unemployment Benefits					
Welfare Benefits					
Food Stamp Benefits					
Interest and Dividend Income					
Other Income					
TOTAL, ALL INCOME					

B. AVERAGE GROSS MONTHLY INCOME DURING PERIOD OF DELINQUENCY

Show income data rounded to the nearest dollar.	HUSBAND	WIFE	DEPENDENTS	OTHER	TOTAL
Gross Monthly Wages					
Social Security Payments					
Retirement Benefits					
Military & Veterans Disability Payments					
Unemployment Benefits					
Welfare Benefits					
Food Stamp Benefits					
Interest and Dividend Income					
Other Income					
TOTAL, ALL INCOME					

TOTAL CURRENT FAMILY INCOME AS A PERCENT TOTAL PRIOR FAMILY INCOME (Part B / Part A) ..... %

NOTE: This form is intended to serve as a guide to assist the lending institution in arriving at the homeowner's gross income. The lending institution, however, is expected to exercise prudence in determining the family's gross, recurring monthly income.

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

Effective date. This regulation shall be effective on December 30, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-34748 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975



PART III:

CONSUMER PRODUCT SAFETY COMMISSION

■

FLAMMABLE FABRICS ACT

Revision and Recodification of Regulations

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 302—RULES AND REGULATIONS UNDER FLAMMABLE FABRICS ACT

Deletion

Elsewhere in the FEDERAL REGISTER today the Consumer Product Safety Commission has published a notice transferring all sections of 16 CFR Part 302 to Subchapter D of 16 CFR Chapter II. Therefore, Part 302 of Title 16 is deleted.

Dated: December 22, 1975.

SADYE E. DUNN,
Secretary Consumer Product Safety Commission.

[FR Doc.75-34877 Filed 12-24-75;8:45 am]

SUBCHAPTER D—FLAMMABLE FABRICS ACT REGULATIONS

CODIFICATION AND TRANSFER OF REGULATIONS

In this document the Consumer Product Safety Commission codifies flammability standards, policy statements, and interpretations under the Flammable Fabrics Act and transfers rules and regulations under that act from Title 16, Code of Federal Regulations, Part 302 to Title 16, Code of Federal Regulations, Chapter II, Subchapter D.

On May 14, 1973 functions under the Flammable Fabrics Act (15 U.S.C. 1191–1204) were transferred to the Consumer Product Safety Commission pursuant to section 30 of the Consumer Product Safety Act (15 U.S.C. 2079). Previously the Department of Commerce, the Federal Trade Commission, and the Department of Health, Education, and Welfare had responsibilities under the Flammable Fabrics Act.

Under section 30(e) of the Consumer Product Safety Act all determinations, rules, and regulations in effect at the time of transfer of functions to the Consumer Product Safety Commission continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Consumer Product Safety Commission, by any court of competent jurisdiction, or by operation of law.

Therefore, the items codified and transferred in this notice include documents issued by the agencies that previously exercised functions under the act as well as documents issued by the Consumer Product Safety Commission. Various non-substantive corrections and editorial changes, including numbering changes, have been made in the process of this transfer and codification. However, the Consumer Product Safety Commission has made no substantive change in any of the documents that are codified or transferred in this notice.

DESCRIPTION OF DOCUMENT

Part 1602, Statements of Policy or Interpretation, contains a general enforcement policy statement (§ 1602.1), published by the CPSC on September 11, 1973 (38 FR 24923) and a policy on the exportation of non-complying goods (§ 1602.2) that was published by the Commission on December 5, 1975 (40 FR 56885).

Part 1603, which was entitled "Statements of Policy or Interpretation" is deleted. The clarification of the Standard for the Flammability of Clothing Textiles (CS 191–53) which appeared in 16 CFR 1603.1 has been transferred to Subpart C of Part 1610.

Part 1607, Procedures for the Development of Flammability Standards, is reprinted in this document for convenience, since it currently appears at Part 1607.

Part 1608 contains general rules and regulations under the Act, that were originally issued by the Federal Trade Commission and published at 16 CFR 302.1, and 302.9 through 302.13. These rules and regulations apply to all standards in effect under the Flammable Fabrics Act. The CPSC has made minor editorial revisions in these regulations in transferring them.

Other rules and regulations previously found at 16 CFR Part 302 have been transferred to the applicable Parts in Chapter II, Subchapter D, as described below.

Part 1609 is a reprint of the Flammable Fabrics Act of 1953, as amended in 1954 (Ch. 164, 67 Stat. 111, as amended, Ch. 833, 68 Stat. 770 (1954)). The Act was later amended and revised on December 14, 1967. However, the amendment contained a savings clause (Sec. 11, Pub. L. 90–189, 81 Stat. 568) that provided that the two flammability standards in effect under the Flammable Fabrics Act of 1953 as amended in 1954 were to continue in effect. These two flammability standards are Commercial Standard 191–53, Flammability of Clothing Textiles and Commercial Standard 192–53, General Purpose Vinyl Plastic Film. The two standards are printed at Parts 1610 and 1611 of this document.

In Subpart A of Part 1610, the CPSC codifies the Standard for the Flammability of Clothing Textiles (CS 191–53) which has not before been published in the Code of Federal Regulations. Into Subpart B, the CPSC has transferred 16 CFR 302.1–8 and 302.14, rules and regulations applicable to this Standard. In Subpart C, the CPSC transfers the clarification of the Standard, which was previously found at 16 CFR 1603.1.

Part 1611 contains the Standard for the Flammability of Vinyl Plastic Film (CS 192–53) which has not before been published in the Code of Federal Regulations. Subpart B of this Part contains rules and regulations applicable to this Standard, which were previously found at 16 CFR 302.1–8 and 302.14.

The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) and the rules, regulations, policies, and interpretations under the Standard are found at Part 1615. The rules and regulations, printed in Subpart B, were previously found at 16 CFR Part 302.19. Subpart C includes interpretations and policies under the standard.

Part 1616 contains, in subpart A, the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14, as amended (FF 5–74). Subpart B includes rules and regulations under the Standard that were previously published at 16 CFR 302.21. Subpart C includes interpretations and policies under the standard.

The Standard for the Surface Flammability of Carpets and Rugs (FF 1–70) is published at Subpart A of Part 1630. Subpart B includes rules and regulations under the Standard that were previously published at 16 CFR 302.15, and 302.17. Subpart C includes alternative washing procedures under the Standard approved by the Federal Trade Commission for hide rugs and wool flokati rugs. Section 1630.63 provides for the suspension of washing requirements for carpets and rugs with alumina trihydrate in the backing.

Part 1631 contains at Subpart A, the Standard for the Surface Flammability of Small Carpet and Rugs (FF 2–70). Subpart B includes rules and regulations under the Standard previously codified at 16 CFR 302.15 through 302.18. Subpart C contains alternative washing procedures under the Standard for hide rugs and wool flokati rugs.

The Standard for the Flammability of Mattresses (and Mattress Pads) (FF 4–72) is codified at Subpart A of Part 1632. Five alternate sampling plans under the standard are published in Subpart B. Rules and regulations under the standard which were previously published at 16 CFR 302.20 are published in Subpart C of Part 1632. Interpretations and policies under the Standard are published in Subpart D. Since no new requirements are added by this revision and transfer, notice and public procedure are not prerequisite to this issuance.

Therefore, in 16 CFR Chapter II, Subchapter D is revised as follows:

Part
1602 Statements of Policy or Interpretation.
1607 Procedures for the Development of Flammability Standards.
1608 General Rules and Regulations under the Flammable Fabrics Act.
1609 Text of the Flammable Fabrics Act of 1953, as Amended in 1954, Prior to 1967 Amendment and Revision.
1610 Standard for the Flammability of Clothing Textiles.
1611 Standard for the Flammability of Vinyl Plastic Film.
1615 Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71).
1616 Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5–74).
1630 Standard for the Surface Flammability of Carpets and Rugs (FF 1–70).
1631 Standard for the Surface Flammability of Small Carpets and Rugs (FF 2–70).
1632 Standard for the Flammability of Mattresses (and Mattress Pads) (FF 4–72).

PART 1602—STATEMENTS OF POLICY OR INTERPRETATION

Sec.
1602.1 Enforcement policy.
1602.2 Policy on exportation of non-complying goods.

§ 1602.1 Enforcement policy.

(a) On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act, as amended (15 U.S.C. 1191–1204), were transferred to the Consumer Product Safety Commission pursuant to section 30(b) of the Consumer Product Safety Act (Pub. L. 92–573), 86 Stat. 1231 (15 U.S.C. 2079(b)).

(b) The Consumer Product Safety Commission intends to discharge its responsibilities under the Flammable Fabrics Act vigorously, expeditiously, and without compromise in order to protect the public from the hazards to life, health, and property caused by dangerously flammable products.

(c) The Consumer Product Safety Commission has determined that its enforcement policy for the Flammable Fabrics Act, will be to have available for use in each case the full range of enforcement procedures under that act without qualification or modification. Accordingly, notice is given that the Consumer Product Safety Commission hereby institutes an enforcement policy of using in each case arising under the Flammable Fabrics Act any and all appropriate enforcement procedures available under that act.

(d) In order to effectuate this policy, the above stated policy has been adopted and substituted for any conflicting determinations and policies of the Federal Trade Commission. The following determinations and policies of the Federal Trade Commission insofar as they apply to this Commission are terminated and set aside pursuant to section 30(e)(2) of the Consumer Product Safety Act (86 Stat. 1232 (15 U.S.C. 2079(e)(2))):

(1) The Federal Trade Commission's "Flammable Fabrics Enforcement Policy" published as a notice in the FEDERAL REGISTER of November 10, 1971 (36 FR 21544), as amended by a notice published April 25, 1973 (38 FR 10184), which was corrected May 8, 1973 (38 FR 11492).

(2) Any Federal Trade Commission policy or directive modifying or interpreting said Enforcement Policy, as amended.

(e) All other rules, regulations, orders, and determinations of the Federal Trade Commission under the Flammable Fabrics Act will continue in effect until modified, terminated, superseded, set aside, or repealed by the Consumer Product Safety Commission, by any court of competent jurisdiction, or by operation of law.

(Sec. 1, et seq., 81 Stat. 568–74 (15 U.S.C. 1191–1204, note under 1191))

EFFECTIVE DATE: This section became effective September 11, 1973. It was originally published as a notice on that date at 38 FR 24923.

§ 1602.2 Policy on exportation of noncomplying goods.

(a) On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Since the transfer of the administration of the Flammable Fabrics Act, questions have arisen as to when goods that do not comply with the act and with regulations promulgated thereunder may be exported from the United States. The Commission has therefore decided to articulate its policy as set forth in this section concerning the export of such products in order to eliminate unnecessary uncertainty from market decisions, from administrative proceedings and from other enforcement actions this Commission is taking and will take to implement the act and regulations and standards thereunder.

(b) *Definitions.* As used in this section:

(1) "act" means the Flammable Fabrics Act, as amended and revised (81 Stat. 568, 15 U.S.C. 1191–1204).

(2) "Export" or "exportation" means to carry or send goods out of the United States, Puerto Rico, or any territory or possession of the United States to any foreign nation.

(3) "Import" or "importation" means to carry or bring goods into the United States, Puerto Rico, or any territory or possession of the United States from any foreign nation. For the purposes of this section, goods are considered to have been imported into the United States when they have entered into the United States; that is, when they have moved from Customs custody into the customs territory of the United States.

(4) "Marketing or handling" of goods subject to the act means all actions described in section 3 of the act (15 U.S.C. 1192); that is, the manufacture for sale, sale, offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation or causing to be transported, in commerce, or sale or delivery after sale or shipment in commerce of any product, fabric, or related material subject to the act or the manufacture for sale, sale, or offering for sale of any product made of fabric or related material subject to the act and which has been shipped or received in commerce.

(c)(1) Section (3)(a) of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other things, the manufacture for sale, the sale, or offering for sale in commerce or the importation into the United States of any product, fabric, or related material which fails to conform to an applicable standard or regulation issued under the act. Section 3(b) of the act prohibits the manufacture for sale, the sale, or the offering for sale, of any product made of fabric or related material which fails to conform to an applicable standard or regulation issued under the act and which has been shipped or received in commerce.

(2) Section 15(a) of the act (15 U.S.C. 1202) states that the act "does not apply to any fabric, related material, or product which is to be exported from the United States, if such fabric, related material, or product and any container in which it is enclosed bears a stamp or label stating that such fabric, related material, or product is intended for export and such fabric, related material, or product is in fact exported from the United States," with the exception that the act does apply to goods intended to be marketed to any installation of the United States located outside the United States.

(3) Section 15(b) of the act excludes from coverage "any fabric, related material, or product which is imported into the United States for dyeing, finishing, other processing, or storage in bond, and export from the United States," if certain requirements are met, with the exception that the act does apply to any such imported goods manufactured for sale, offered for sale, or intended for shipment to any installation of the United States located outside of the United States.

(d) The Federal Trade Commission did not consider the exemptions found in section 15 to apply to nonconforming goods which were intended for domestic distribution at the time of manufacture or original importation and which were not intended for exportation from the United States at the time they were manufactured or imported into the United States. The enforcement staff of the Consumer Product Safety Commission has been consistently following this policy.

(e) The Consumer Product Safety Commission now affirms the basic policy adopted by the FTC and by this § 1602.2 explicitly interprets section 15 of the act as exempting non-conforming goods for exportation only when the manufacturer or importer intends at the time of original manufacture or importation that such goods are to be exported from the United States, to other than an installation of the United States located outside the United States, and manifests that intent by marketing such goods for export and proceeds to export them. Therefore the exportation exemption found in section 15 cannot be claimed once any nonconforming product, fabric or related material or product made of nonconforming fabric or related material has originally been imported or marketed or handled domestically or shipped to a U.S. installation without bearing the required exportation label.

(f) The Flammable Fabrics Act has the dual objectives of discouraging the introduction of flammable goods into commerce and removing from the domestic marketplace flammable goods which have entered commerce. The act must be interpreted in such a way as to preserve its total deterrent value as well as the integrity of the authorities given to the Commission by Congress to eliminate the risk of injury to the public.

(g) If the act were interpreted as to permit a person subject to the act, who marketed or handled violative goods for domestic use, upon discovery of the violation, to export the nonconforming goods, the deterrent value of the act's prohibitions would be seriously reduced. The incentive the act gives a person to avoid the initial introduction of nonconforming goods into domestic channels of commerce would be reduced. Moreover

such an interpretation would leave the public exposed to a continued risk of injury or property damage from products that did not comply with flammability standards. Such an interpretation would conflict with the Congressional intent to discourage the introduction of nonconforming goods into commerce and is not supported by any language in the act. It must therefore be rejected by this Commission in favor of an interpretation that precludes exportation of any noncomplying goods that were not intended for export at the time of original manufacture or importation, or which entered domestic commerce without the manifest intent of being exported (Section 15 of the Flammable Fabrics Act mandates a labeling requirement if the item was originally intended for export).

(h) In any enforcement action taken by this Commission, the person who markets or handles nonconforming goods shall not be allowed to export domestically made goods unless the intent to export them was previously manifested at the time of manufacture nor shall a person be allowed to export foreign made noncomplying goods which were imported into the United States, unless the intent to export them was previously manifested at the time of the original importation. The Commission may in certain instances allow persons subject to the act the opportunity to re-work the violative goods in order to bring them into conformity with the law and in such instances, as to imported goods, the importer may elect to return the goods to the foreign manufacturer to be reworked to bring them into conformity with the law. Otherwise, nonconforming goods shall be destroyed.

(Secs. 3, 5, 67 Stat. 111–112, 115, as amended 81 Stat. 568–569, 574; 15 U.S.C. 1192, 1202.)

PART 1607—PROCEDURES FOR THE DEVELOPMENT OF FLAMMABILITY STANDARDS

Sec.

1607.1 Purpose.
1607.2 Definitions.
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1607.14 Petitions for rulemaking.

AUTHORITY: Secs. 1–17, 67 Stat. 111–115, as amended 81 Stat. 568–574; 15 U.S.C. 1191–1204.

§ 1607.1 Purpose.

The purpose of this Part 1607 is to prescribe procedures relating to the discharge of the responsibilities of the Consumer Product Safety Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193). See § 1607.2(a) for information identifying the act.

§ 1607.2 Definitions.

As used in this Part 1607—

(a) "act" means the Flammable Fabrics Act (15 U.S.C. 1191–1204) enacted June 30, 1953 (Pub. L. 83–88; 67 Stat. 111–115), amended August 23, 1954 (Pub. L. 83–629; 68 Stat. 770), and amended and revised December 14, 1967 (Pub. L. 90–189; 81 Stat. 568–574).

(b) "Commission" means the Consumer Product Safety Commission established by the Consumer Product Safety Act (Pub. L. 92–573, sec. 4, 86 Stat. 1210; 15 U.S.C. 2053).

(c) "Article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals.

(d) "Interior furnishing" means any type of furnishing made in whole or in part of fabric or related material and intended for use, or which may reasonably be expected to be used, in homes, offices, or other places of assembly or accomodation.

(e) "Fabric" means any material (except fiber, filament, or yarn for other than retail sale) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended for use, or which may reasonably be expected to be used, in any product as defined in paragraph (g) of this section.

(f) "Related material" means paper, plastic, rubber, synthetic film, or synthetic foam that is intended for use, or that may reasonably be expected to be used, in any product as defined in paragraph (g) of this section.

(g) "Product" means any article of wearing apparel or interior furnishing.

(h) "Person" means an individual, partnership, corporation, association, or any other form of public or business organization.

(i) "Flammability standard" means any standard (including conditions and manner of testing) or other regulation, including any labeling regulation, or any revision or amendment thereto, relating to the flammability of a fabric, related material, or product.

(j) "Written comments" means legible comments, data, arguments, views, or other information, submitted in writing (preferably in five copies) by interested persons for the public record.

§ 1607.3 Transfer of functions.

Effective May 14, 1973, section 30(b) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231; 15 U.S.C. 2079(b)) transferred functions under the Flammable Fabrics Act from the Federal Trade Commission and the Departments of Commerce and Health, Education, and Welfare to the Consumer Product Safety Commission.

§ 1607.4 Records of proceedings.

Records of the Commission relating to rulemaking proceedings, available for public inspection and copying in accordance with 5 U.S.C. 552 or other applicable laws or regulations, may be obtained at the Office of the Secretary, Consumer Product Safety Commission, 10th floor, 1750 K Street NW., Washington, D.C. 20207. Interested persons may obtain copies upon payment of the prescribed fees.

§ 1607.5 Authority of the Commission to obtain testimony or records by regulation or subpoena.

(a) Section 4(c) of the act authorizes the Commission to obtain from any person by regulation, or subpoena issued pursuant thereto, such information in the form of testimony, books, records, or other writings as is pertinent to any findings or determinations that the Commission is required or authorized to make under the act.

(b) All information reported to or otherwise obtained by the Commission pursuant to section 4(c) of the act that contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential for the purposes of 18 U.S.C. 1905 and withheld from the public record. Such information, however, may be disclosed to other officers or employees concerned with carrying out the provisions of the act or disclosed when relevant to any proceeding under the act. Any information submitted to the Commission that contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 should be so identified clearly and should set forth adequate justification for its inclusion in this category. All such information should be submitted separately from comments for the public record.

§ 1607.6 Advance notice of finding that a flammability standard may be needed.

Whenever the Commission finds on the basis of investigations or research conducted under the authority of section 14 of the act that a flammability standard for a fabric, related material, or product may be needed to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage, the Commission shall publish a notice in the FEDERAL REGISTER declaring that such standard may be needed and stating concisely the basis therefor.

§ 1607.7 Proceedings for development of a proposed flammability standard.

(a) Whenever a notice is published under § 1607.6, the Commission shall also publish simultaneously a notice in the FEDERAL REGISTER instituting proceedings for the development of an appropriate flammability standard and inviting interested persons to submit written comments to the Commission relative to:

(1) The finding published under § 1607.6 that a flammability standard may be needed; and

(2) The terms or substance of a flammability standard that might be adopted in the event that a final finding is made by the Commission that such a flammability standard is needed.

(b) Written comments shall be postmarked or delivered within 30 days after

publication of a notice under this section, unless specified otherwise. All materials considered relevant to any statement of fact or argument should be submitted with such written comments.

(c) To obtain additional information for the development of a proposed flammability standard and to protect the public interest, the Commission may invite the views of local, State, and Federal agencies and other interested persons and may provide interested persons an opportunity for oral presentation, as provided in 5 U.S.C. 553(c), which may include an informal oral hearing.

§ 1607.8 Publication of proposed flammability standard.

(a) As soon as practicable following the conclusion of the initial proceedings under § 1607.7, the Commission shall publish in the FEDERAL REGISTER:

(1) A notice withdrawing its finding that a new or amended flammability standard may be needed (in no event, however, shall the withdrawal preclude the conduct of further investigation or research under section 14 of the act or preclude the initiation of another proceeding regarding the same or similar subject matter under the procedures in this part); or

(2) A notice proposing a flammability standard.

(b) The notice of a proposed flammability standard under paragraph (a)(2) of this section shall include:

(1) The provisions of such proposed flammability standard, stated in objective terms; and

(2) The preliminary findings of the Commission, together with a concise statement of the basis therefor, that such a flammability standard:

(i) Is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death, injury, or significant property damage;

(ii) Is reasonable, technologically practicable, and appropriate; and

(iii) Is limited to fabrics, related materials, or products that have been determined to present such unreasonable risks.

§ 1607.9 Participation of interested persons in rulemaking proceedings.

(a) Within 30 days (unless specified otherwise) after publication of a notice under § 1607.8 proposing a flammability standard in the FEDERAL REGISTER, interested persons may participate in the rulemaking proceedings in accordance with 5 U.S.C. 553 by submitting written comments relevant to the proposed flammability standard.

(b) The Commission may solicit comments from local, State, and Federal agencies and other interested persons and may give interested persons an opportunity for oral presentation, as provided in 5 U.S.C. 553, to assure development of an appropriate standard and to protect the public interest.

§ 1607.10 Informal public oral hearings.

(a) At its discretion, the Commission may include in the notice of a proposed flammability standard, published in the FEDERAL REGISTER under § 1607.8, an invitation to interested persons to participate in an informal oral hearing under 5 U.S.C. 553. If the published notice does not provide for such hearing, any interested person may request in writing, within 15 days after publication of such notice, an informal oral hearing under 5 U.S.C. 553. Upon receipt by the Commission of such a request, the Commission shall grant the request and publish in the FEDERAL REGISTER a notice of an informal public oral hearing at least twenty (20) days in advance of the hearing.

(b) Sections 556 and 557 of 5 U.S.C. do not apply to hearings held under this section. Unless specified otherwise, such hearings shall be informal, nonadversary proceedings (no formal pleadings or adverse parties). A stenographic transcript of such hearings and any exhibits submitted thereat shall be made a part of the public record.

(c) A hearing held under this section shall be conducted by a presiding officer designated by the Commission and empowered to establish reasonable procedures governing conduct of the hearing.

§ 1607.11 Adoption of a final flammability standard.

(a) The Commission shall consider all oral and written comments and other materials received in accordance with any proceedings under this Part 1607. Comments filed after expiration of the designated time periods may be considered insofar as practicable.

(b) As soon as practicable after considering the comments and other material under paragraph (a) of this section and after consulting with the National Advisory Committee for the Flammable Fabrics Act, the Commission shall publish in the FEDERAL REGISTER either:

(1) A document promulgating a flammability standard, stated in objective terms, and presenting the Commission's findings with respect to the requirements of section 4(b) of the act with a concise statement of the basis for such findings; or

(2) A notice terminating, suspending, or amending the instant proceedings for the adoption of the flammability standard concerned.

(c) In no event shall notice of the termination or suspension of proceedings under this section operate to preclude the conduct of further investigation or research under section 14 of the act or to preclude the initiation of another proceeding regarding the same or similar subject matter under these procedures.

§ 1607.12 Effective date.

Each flammability standard promulgated under this Part 1607 shall become effective 12 months after publication in the FEDERAL REGISTER, unless the Commission finds for good cause shown that an earlier or later effective date is in the public interest. Any such finding by the Commission will be published in the FEDERAL REGISTER with a concise statement of the basis for such finding.

§ 1607.13 Exemption for items in inventory.

Each flammability standard promulgated in accordance with this Part 1607 shall exempt fabrics, related materials, or products in inventory or with the trade as of the date that such standard becomes effective. If the Commission finds, however, that any such fabric, related material, or product is so highly flammable as to be dangerous when used by consumers for the purposes for which intended, the Commission may, under such conditions as it prescribes, withdraw or limit the exemption for such fabric, related material, or product. Any such finding by the Commission will be published in the FEDERAL REGISTER with a concise statement of the facts upon which the finding is based.

§ 1607.14 Petition for rulemaking.

(a) Any interested person may petition the Commission to issue, amend, or revoke a flammability standard or the procedural rules established in this Part 1607.

(b) Each petition filed under this section shall:

(1) Be submitted, preferably in five copies, to the Consumer Product Safety Commission, Office of the Secretary, 1750 K Street NW., Washington, D.C. 20207.

(2) Set forth the text or substance of the proposed flammability standard or procedural rule, or proposed amendment thereto, or specify the flammability standard or procedural rule the petitioner seeks to have revoked, as the case may be;

(3) Explain the interest of the petitioner in the action requested; and

(4) Contain any information and arguments available to the petitioner in support of the action sought.

(c) Unless the Commission specifies otherwise, no public hearing, argument, or other proceeding shall be held on a petition before its disposition. If the Commission determines that a petition does not justify rulemaking, it shall deny the petition. If the Commission determines that a petition contains adequate justification, it shall take appropriate action in accordance with the provisions of the act including, where necessary, the institution of proceedings to consider the issuance, amendment, or repeal of the flammability standard or procedural rule concerned.

(d) The Commission shall notify each petitioner, in writing, of the action taken on his petition.

(e) The filing of a petition under this section does not of itself stay the effective date of any flammability standard or procedural rule concerned.

PART 1608—GENERAL RULES AND REGULATIONS UNDER THE FLAMMABLE FABRICS ACT

Sec.

1608.0 Scope.
1608.1 Terms defined.
1608.2 Form of separate guaranty.
1608.3 Continuing guaranties.
1608.4 Guaranties furnished by non-residents of the U.S. no bar to prosecution.

Sec.
1608.5 Salvage operations of common carriers and others.
1608.6 Reference to guaranty by Government prohibited.

AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570, 15 U.S.C. 1194, unless otherwise noted.

§ 1608.0 Scope.

The rules and regulations in this Part are applicable to all standards issued under the Flammable Fabrics Act.

§ 1608.1 Terms defined.

As used in the rules and regulations in this Subchapter D, unless the context otherwise specifically requires:

(a) The term "act" means the Flammable Fabrics Act, sec. 1 et seq., 67 Stat. 111–115, as amended, 68 Stat. 770, 81 Stat. 568–74 (15 U.S.C. 1191–1204, note under 1191).

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the act.

(e) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1608.2 Form of separate guaranty.

The forms which follow are suggested forms of separate guaranties under section 8 of the act for use by guarantors residing in the United States. Representations contained in these suggested forms of separate guaranties with respect to reasonable and representative tests may be based upon a guaranty received and relied upon in good faith by the guarantor, tests performed by or for a guarantor, or class tests, where permitted under these rules. Where the forms are used as part of an invoice or other paper relating to the marketing or handling of products, fabrics, or related materials subject to the act, wording may be varied to limit the guaranty to specific items in such invoice or other paper. The name, address of the guarantor, and date on the invoice or other paper will suffice to meet the signature, address, and date requirements indicated on the forms.

(a) *General form.*

The undersigned hereby guarantees that reasonable and representative tests, made in accordance with procedures prescribed and applicable standards or regulations issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, show that the product, fabric, or related material covered and identified by, and in the form delivered under this document conforms to the applicable standard or regulation issued, amended, or continued in effect.

Date: _____ _____
Name
_____
Address

(b) *Form for guaranty based on guaranty.*

Based upon a guaranty received, the undersigned hereby guarantees that reasonable and representative tests, made in accordance with procedures prescribed pursuant to the Flammable Fabrics Act, as amended, show that the product, fabric, or related material covered and identified by, and in the form delivered under this document conforms to the applicable standard or regulation issued, amended, or continued in effect.

Date: _____ _____
Name
_____
Address

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

§ 1608.3 Continuing guaranties.

(a) Any person residing in the United States may file with the Bureau of Compliance of the Consumer Product Safety Commission a continuing guaranty under section 8 of the act applicable to any product, fabric, or related material marketed or handled by such person. When filed with the Commission, a continuing guaranty shall be fully executed in duplicate and execution of each copy shall be acknowledged before a notary public. Forms for use in preparing continuing guaranties to be filed with the Commission will be supplied by the Bureau of Compliance of the Commission upon request. To remain in effect, such guaranties must be renewed every 3 years and at such other times as any change occurs in the legal business status of the person filing the guaranty. It is therefore required that any person who has filed a continuing guaranty with the Commission shall promptly advise the Commission in writing of any change in the legal status of the guarantor or in the address of the guarantor's principal office and place of business. Representations contained in the prescribed form of continuing guaranty with respect to reasonable and representative tests may be based upon (1) a guaranty received and relied upon in good faith by the guarantor, (2) tests performed by or for a guarantor, or (3) class tests, where permitted under these rules.

(b) The following is the prescribed form of continuing guaranty for filing with the Commission:

CONTINUING GUARANTY UNDER THE FLAMMABLE FABRICS ACT FOR FILING WITH CONSUMER PRODUCT SAFETY COMMISSION

The undersigned, _____, a _____ residing in the
(Corporation, partnership, proprietorship)
United States and having principal office and place of business at _____
(Street and number)
_____, _____,
(City) (State or territory, ZIP code)
and being engaged in the marketing or handling of products, fabrics, or related materials subject to the Flammable Fabrics Act, as amended, and regulations thereunder,

Hereby guarantee(s) that with regard to all the products, fabrics, or related materials

[described as follows: _____
_____
_____]

(If guaranty is limited to certain products, fabrics, or related materials, list the general categories here. If guaranty is not so limited, leave these lines blank.)

hereafter marketed or handled by the undersigned, and for which flammability standards have been issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, reasonable and representative tests as prescribed by the Consumer Product Safety Commission have been performed, which shows that the products, fabrics, or related materials conform to such of the above-mentioned flammability standards as are applicable thereto.

Dated, signed, and executed this __ day of _____, 19__, at _____
(City)
_____
(State or Territory)

_____ _____
(Impression of corporate seal, if corporation.) (Name under which business is conducted.)
(If firm is a partnership list partners below.) _____
_____ (Signature of proprietor, partner, or authorized official of corporation.)
_____

State of _____ }
County of _____ } ss

On this __ day of _____, 19__, before me personally appeared the said _____,
(Signer of guaranty)
proprietor, partner (strike nonapplicable words) _____
(If corporation, give title of signing official)
of _____, to me personally known, and
(Firm name)
acknowledged the execution of the foregoing instrument on behalf of the firm, for the uses and purposes therein stated.

_____
(Impression of notary seal required here.) Notary Public in and for
County of _____
State of _____
My commission expires _____

(c) Any person who has a continuing guaranty on file with the Commission may, during the effective period of the guaranty, give notice of such fact by setting forth on the invoice or other paper covering the marketing or handling of the product, fabric, or related material guaranteed the following:

Continuing guaranty under the Flammable Fabrics Act filed with the Consumer Product Safety Commission.

Provided, however, That such statement may not be used where the guaranty is limited and the invoice or other paper covers any product, fabric, or related material, subject to a flammability standard under the act, which is not covered by the guaranty because of its limited nature.

(d) Any person who falsely represents that he has a continuing guaranty on file with the Commission when such is not a fact, or who falsely represents that a limited continuing guaranty he does have on file with the Commission covers any product, fabric, or related material when such is not the case, shall be deemed to have furnished a false guaranty under section 8(b) of the act.

(e) Any seller residing in the United States may give a continuing guaranty

under section 8 of the act to a buyer applicable to any product, fabric, or related material sold or to be sold to said buyer by seller. All such continuing guaranties shall be fully executed in duplicate and execution of each copy shall be acknowledged before a notary public. To remain in effect, such guaranties must be renewed every 3 years and at such other times as any change occurs in the legal business status of the person giving the guaranty. Representations contained in the prescribed form of continuing guaranty from seller to buyer with respect to reasonable and representative tests may be based upon (1) a guaranty received and relied upon in good faith by the guarantor, (2) tests performed by or for a guarantor, or (3) class tests, where permitted under these rules.

(f) The following is the prescribed form of continuing guaranty from seller to buyer:

CONTINUING GUARANTY FROM SELLER TO BUYER UNDER THE FLAMMABLE FABRICS ACT

The undersigned, _____, a _____

(Corporation, partnership, proprietorship) residing in the United States and having its principal office and place of business at _____, _____;

(Street and number)

_____, _____;

(City) (State or Territory and ZIP code) and being engaged in the marketing or handling of products, fabrics, or related materials subject to the Flammable Fabrics Act, as amended, and Regulations thereunder,

Hereby guarantee(s) to _____,

(Name and address) buyer, that with regard to all the products, fabrics, or related materials [described as follows: _____

(If guaranty is limited to certain products, fabrics, or related materials, list the general categories here. If guaranty is not so limited, leave these lines blank.)]

sold or to be sold to buyer by the undersigned, and for which flammability standards have been issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, reasonable and representative tests as prescribed by the Consumer Product Safety Commission have been performed which show that the products, fabrics, or related materials, at the time of their shipment or delivery by the undersigned, conform to such of the above-mentioned flammability standards as are applicable thereto.

Dated, signed, and executed this _____ day of _____ 19____, at _____, _____

(City) (State or Territory)

(Impression of corporate seal, if corporation.) (Name under which business is conducted.)

(If firm is a partnership list partners below.) (Signature of proprietor, partner, or authorized official of corporation.)

_____

_____

_____

_____

STATE OF _____, _____ ss:
County of _____,

On this _____ day of _____, 19____, before me personally appeared the said _____, proprietor, partner (Signer of guaranty) (Strike non-applicable words) _____ (If corporation, give title of signing official) of _____ (Firm name), to me personally known, and acknowledged the execution of the foregoing instrument on behalf of the firm, for the uses and purposes therein stated.

(Impression of notary seal required here.)

_____
Notary Public in and for
County of _____
State of _____
My commission expires _____

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194; section 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

§ 1608.4 Guaranties furnished by nonresidents of the U.S. no bar to prosecution.

A guaranty furnished under section 8 of the act by a person who is not a resident of the United States may not be relied upon as a bar to prosecution under section 7 of the act for a violation of section 3 of the act.

§ 1608.5 Salvage operations of common carriers and others.

For the purposes of this act the ordinary course of business of common carriers, contract carriers or freight forwarders, as referred to in section 11 of the act, shall not include the marketing or handling of products, fabrics, or related materials subject to the act in the course of performance of salvage or lien realizing operations.

§ 1608.6 Reference to guaranty by Government prohibited.

No representation nor suggestion shall be made in advertising or otherwise marketing or handling products, fabrics or related materials subject to the act that the act, the Government, or any branch thereof, guarantees, in any manner that such product, fabric, or related material conforms to a flammability standard in effect under the act.

PART 1609—TEXT OF THE FLAMMABLE FABRICS ACT OF 1953, AS AMENDED IN 1954, PRIOR TO 1967 AMENDMENT AND REVISION

§ 1609.1 Text of the Flammable Fabrics Act of 1953, as amended in 1954.

The following is the text of the Flammable Fabrics Act of 1953, ch. 164, 67 Stat. 111, as amended, ch. 833, 68 Stat. 770 (1954):

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191–53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192–53." For the purposes of this Act, such Commercial Standard 191–53 shall apply with respect to the hats, gloves, and footwear covered by section 2(d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191–53, textiles free from nap, pile, tufting, flock or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning when the time of flame spread is less than three and one-half seconds. [Approved August 23, 1954.]

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8(b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of Section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any persion is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in the United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8(b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Subpart A—The Standard

Sec.
1610.1 Purpose.
1610.2 Scope.
1610.3 Requirements.
1610.4 Methods of Test.
1610.5 Notes.

Subpart B—Rules and Regulations

1610.31 Terms defined.
1610.32 General requirements.
1610.33 Test procedures for textible fabrics and films.
1610.34 Only uncovered or exposed parts of wearing apparel to be tested.
1610.35 Testing certain classes of fabrics.
1610.36 Application of act to particular types of products.
1610.37 Reasonable and representative test under section 8 of the act.
1610.38 Maintenance of records by those furnishing guaranties.
1610.39 Shipments under 11(c) of the act.

Subpart C—Interpretations and Policies

1610.61 Clarification of the standard.

CODIFICATION NOTE: Part 1610 is a codification of the previously unpublished standard for flammability of clothing textiles, Commercial Standard 191–53, issued by the Department of Commerce, effective on January 30, 1953. This flammability standard became mandatory through section 4(a) of the Flammable Fabrics Act, as amended in 1954, and remains in effect due to the savings clause (section 11) of Pub. L. 90–189. 16 CFR Part 1609 contains the text of the Flammable Fabrics Act of 1953, as amended in 1954.

Subpart A—The Standard

AUTHORITY: Sec. 5, Pub. L. 83–88, 67 Stat. 112, as amended, 68 Stat. 770 (15 U.S.C. 1193); sec. 11, Pub. L. 90–189, 81 Stat. 568.

NOTE: All fabrics of natural or regenerated cellulose, as well as certain types of finished and unfinished fabrics made from other natural or synthetic fibers, are combustible. Some combustible fabrics, when used for clothing, are potentially dangerous to the wearer because of the speed and intensity of flame with which those fabrics burn and their ease of ignition, and because of the design of the garment. Two of these factors, the ease of ignition and the speed of flame spread, can be measured with the instrument described herein.

It is suggested that measurement of these two factors, together with visual observation of flame intensity, will permit the separation of various fabrics into three classes of flammability, thus assisting in a judgment of fabric suitability for clothing.

§ 1610.1 Purpose.

The purpose of this standard is to reduce danger of injury and loss of life by providing, on a national basis, standard methods of testing and rating the flammability of textiles and textile products for clothing use, thereby discouraging the use of any dangerously flammable clothing textiles.

§ 1610.2 Scope.

(a) The standard provides methods of testing the flammability of clothing and textiles intended to be used for clothing,[1] * [b] establishes three classes of flammability, sets forth the requirements which textiles shall meet to be so classified, and warns against the use of those textiles which have burning characteristics unsuitable for clothing.

(b) *Specific exceptions.*—This standard shall not apply to—

(1) Hats, gloves, and footwear [c]

(2) Interlining fabrics [3]

§ 1610.3 Requirements.

(a)(1) *Normal flammability, Class 1.*—This class shall include textiles which meet the minimum requirements set forth in paragraph (a)(1)(i) or paragraph (a)(1)(ii) of this section. Textiles meeting these requirements are generally accepted by the trade as having no unusual burning characteristics.

(i) *Textile without nap, pile, tufting, flock, or other type of raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4 shall be classified as Class 1, normal flammability, when the time of flame spread is 4 seconds [d] or more.

(ii) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 1, normal flammability, when the time of flame spread is more than 7 seconds, or when they burn with a rapid surface flash (from 0 to 7 seconds), provided the intensity of the flame is so low as not to ignite or fuse the base fabric.

(2) *Intermediate flammability, Class 2.*—This class shall include textiles which meet the minimum requirements set forth in paragraph (a)(2)(i) of this section. Textiles meeting these requirements are recognized by the trade as having flammability characteristics between normal and rapid and intense burning.

(i) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 2, intermediate flammability, when the time of flame spread is from 4 to 7 seconds, both inclusive, and the base fabric ignites or fuses.

(3) *Rapid and intense burning, Class 3.*—This class shall include textiles which have burning characteristics as described in paragraphs (a)(3)(i) and (a)(3)(ii) of this section. Such textiles are considered dangerously flammable and recognized by the trade as being unsuitable for clothing because of their rapid and intense burning.

(i) *Textiles free from nap, pile, tufting, flock, or other type of raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e), when tested as described in § 1610.4, shall be classified as Class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds.*

(ii) *Napped, pile, tufted, flocked, or other textiles having a raised-fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in § 1610.4(d) and § 1610.4(e) when tested as described in § 1610.4 shall be classified as Class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds and when the intensity of flame is such as to ignite or fuse the base fabric.

§ 1610.4 Methods of test.

(a)(1) *Number and size of specimens required.*—Five specimens, each measuring 2 by 6 inches, are required for each test.

(2) For textiles without a raised-fiber surface the long dimension shall be that

[1] Hereinafter, "clothing and textiles intended to be used for clothing" shall be referred to as "textiles."

* All the numbered footnotes are from the original printing by the Department of Commerce. All the lettered footnotes are new.

[b] Refer to sections 2 and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609, for the scope of the Standard.

[c] Refer to sections 2(d) and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609 for exceptions to this exception.

[3] Interlining fabrics are not considered dangerously flammable when used as interlinings. When used for other purposes they should be tested and rated the same as any other fabrics.

[4] On August 23, 1954, the Flammable Fabrics Act was amended, changing the test for the time of flame spread for plain-surfaced fabrics, provided in paragraphs 3.1.1.1 (now § 1610.3(a)(1)(i)) and 3.1.3.1 (now § 1610.(a)(3)(i)), by reducing the burning time from 4 to 3½ seconds. For the purpose of the administration of that act, therefore, the 3½ second burning time for plain-surface fabrics is applicable.

* See footnote d.

in which they burn most rapidly, and the more rapidly burning surface shall be tested. To establish the long dimension and the surface, preliminary tests are made as described in paragraph (g) of this section, with specimens cut in different directions.

(3) For textiles having a raised-fiber surface, the direction of the lay of the surface fibers shall be parallel with the long dimension of the specimens. For this type of textiles with varying depths of pile, tufting, etc., the specimens are taken from that part and tested on that surface which has the fastest rate of burning.

(4) If the specimens in the preliminary test, when tested as described in paragraph (g) of this section, do not ignite or are very slow burning, or should have a fire-retarding finish, a swatch large enough to provide the specimens required for the test, with allowance for shrinkage in dry cleaning and washing, is subjected to the dry cleaning and washing procedures described in paragraph (d) and (e) of this section. The specimens for the flammability test are then taken from it.

(5) The specimens required for testing, each 2 by 6 inches, are marked out on the back (or under side) of each sample with the long dimension in the direction in which burning is most rapid, as established in the preliminary trials. The end of the specimen toward which and on the face of which burning is most rapid is identified by attaching a staple to it. The specimens are then cut out.

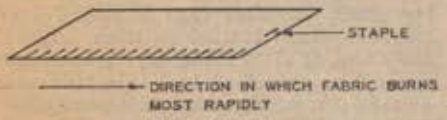


FIGURE 1.—Specimen showing staple.

(b) *Flammability tester.*[2]—The flammability tester consists of a draft-proof ventilated chamber enclosing a standardized ignition medium, sample rack, and automatic timing device.

(1) *Draft-proof chamber with vented top (A, fig. 2).*—This metal chamber prevents air circulation around the specimen rack and flame, but permits free ventilation for rapid oxidation. The chamber is 14½ inches wide, 8½ inches deep, and 14 inches high. There are 12 half-inch holes equidistant along the rear of the top closure. A ventilating strip is provided at the base of the sliding glass door in the front of the apparatus.

(2) *Specimen rack (B, fig. 2).*—The specimen rack provides supports for the frames in which the specimens are mounted. The angle of inclination is 45°. Two guide pins projecting downward from the center of the base of the rack travel in slots provided in the floor of the chamber so that adjustment can be made for the thickness of the specimen in relation to the flame front. A stop is provided in the base of the chamber to assist in adjusting the position of the rack.

(3) *Specimen holder (C, fig. 2).*—The specimen holder consists of two 1/16 inch matched metal plates with clamps mounted along the sides, between which the specimen is fixed. The plates are slotted and loosely pinned for alinement. The two plates of the holder cover all but 1½ inches of the width of the specimen for its full length. The specimen holder is supported in the draft-proof chamber on the rack at an angle of 45°. Five specimen holders are provided.

(4) *Indicating finger (D, fig. 2).*—The forepart of this finger touches the specimen when the rack is adjusted. By means of this finger the thickness of the specimen is compensated for in the throw of the gas nozzle.

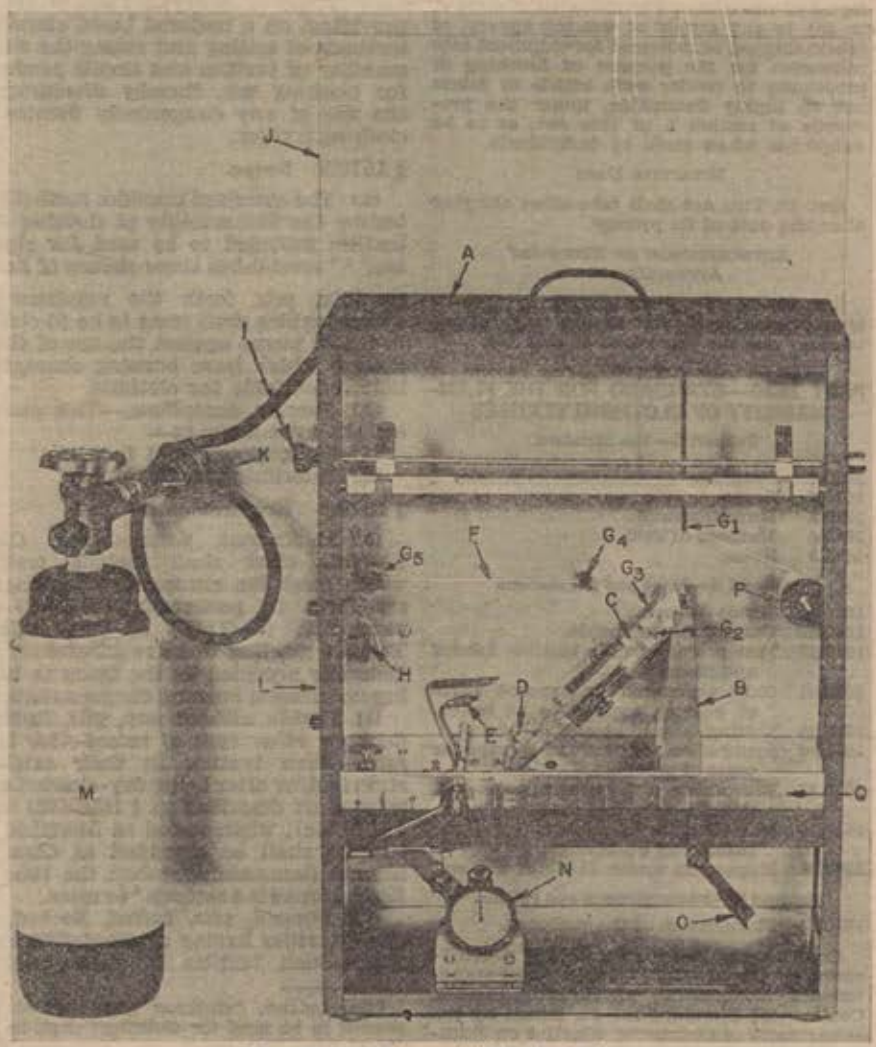


FIGURE 2.—Flammability tester.[3]

(5) *Control knobs (not shown).*—There are two of these knobs which hold the rack in test position. The knobs can be reached under the stage of the cabinet and permit forward and backward movements of the rack when loosened.

(6) *Ignition medium (E, fig. 2).*—The ignition medium consists of a spring-motor-driven gas jet formed around a 26-gage hypodermic needle. A trigger located in the front of the apparatus serves to wind the spring-motor when the machine is placed in operation. The gas jet is protected by a copper shield.

(7) *Stop cord (F, fig. 2).*—This cord, stretched from the spool (P, fig. 2) through suitable thread guides provided on the specimen frame and chamber walls, permits the lacing of the cord in the proper position exactly 5 inches from

[2] This apparatus is manufactured by the United States Testing Co., 1415 Park Avenue, Hoboken, N.J. Blueprints of working plans for the manufacture of this apparatus are available, at a nominal charge, from the above-named company.

[3] This is a new photograph of the flammability tester which reflects the clarification of the stop cord position, set out at § 1610.61(c)(1). References in the text have been changed to correspond with the new photograph, and therefore the letters in the new figure 2 do not entirely correspond to the old figure 2, which appeared in the earlier printings. The letter changes are: (new:old) E:F, F:G, G_5:H, H:I, I:J, J:K, K:L, L:V, G_4:Q, Q:R.

the point where the center of the ignition flame impinges on the test specimen. The stop cord consists of a No. 50 mercerized sewing thread and measures the rise and spread of the flame from the test specimen.

(8) *Pulley or eye* (G_4, *fig. 2*).—The pulley or eye is the support and guide for the stop cord.[g]

(9) *Stop weight* (*H, fig. 2*).—The weight, attached by means of a clip to the stop cord, in dropping actuates the stop motion.

(10) *Slide door control* (*I, fig. 2*).—This knob moves the catch mechanism used to hold the sliding door in an open position for insertion of test specimen racks.

(11) *Slide door* (*J, fig. 2*).—A glass door in its normal position slides in the grooves at the front of the cabinet.

(12) *Fuel-control valve* (*K, fig. 2*).—This valve consists of a sensitive control device for regulating the fuel supply at the tank. The valve ends in a ½-inch male connection for attachment to the standard butane tank of 2 pounds capacity.

(13) *Flow meter.* (*L, fig. 2*).—A flow meter is used to bring the fuel supply to test level by means of the control valve. The flow meter consists of a U-shaped glass tube cut into the gas line in a manner to register the gas pressure delivered to the microburner. Attached to the case wall behind the flow meter is a movable metal plate with two parallel horizontal lines properly spaced for the desired flame length. When the pressure is off, the plate is so regulated that the liquid level in both sides of the U-shaped tube meets the lower line. When the test is made the pressure is so adjusted that the higher liquid level in the U-shaped tube meets the upper line.

(14) *Butane, c.p., container*[f] (*M, fig. 2*).—This fuel supply is a No. 4 cylinder of c.p. butane.

(15) *Stopwatch and timing mechanism* (*N, fig. 2*).—This watch, by means of special attachments, is actuated to a start by connection with the gas jet (E, fig. 2). A driving mechanism on rear of cabinet (*S*, fig. 2) moves the gas jet to its most forward position and automatically starts the timing at the moment of flame impact. The falling weight (H, fig. 2), when caused to move by severance of cord (F, fig. 2), stops the watch. Timing is read directly.

(16) *Starting lever* (*O, fig. 2*).—This lever is operated from left to right in one stroke and is released to operate the gas jet.

(17) *Cord supply* (*P, fig. 2*).—This supply, consisting of a spool of No. 50 mercerized cotton sewing thread, is fastened to the side of the chamber and can be withdrawn by releasing the thumbscrew holding same in position.

(18) *Cord loop* (G_4, *fig. 2*).—At a point behind the stop cord (F, fig. 2), on the rear panel, there is installed another loop to draw the cord away from directly over the flame.

(19) *Draft ventilator strip* (*Q, fig. 2*).—A draft ventilator strip is placed across the front opening, sealing the space between the sliding door when in lowered position and the base on which the grid rack is attached.

(c) *Brushing device.*[h,i]

(1) This device consists of a baseboard over which a smaller carriage is drawn. This carriage runs on parallel tracks attached to the edges of the upper surface of the baseboard. The brush is hinged with pin hinges at the rear edge of the baseboard and rests on the carriage vertically with a pressure of 150 grams.

(2) The brush consists of two rows of stiff nylon bristles mounted with the tufts in a staggered position. The bristles are 0.016 inch in diameter and 0.75 inch in length. There are 20 bristles per

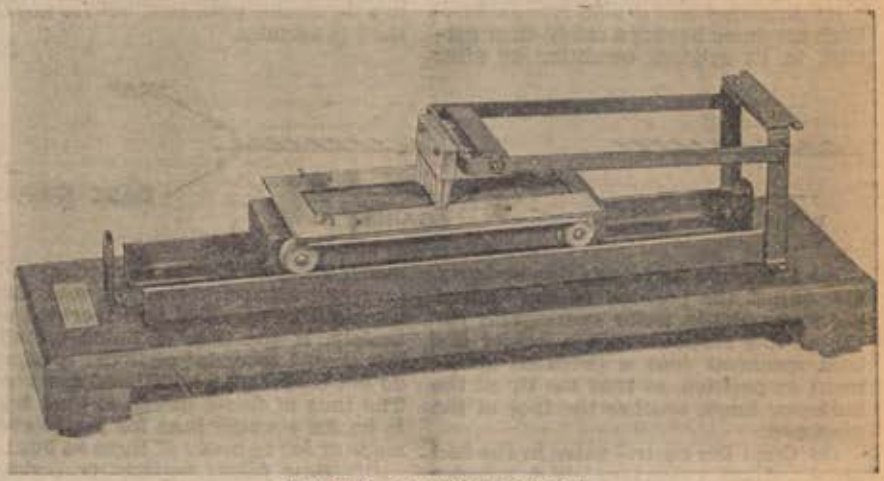


FIGURE 3.—Brushing device.[i]

tuft and 4 tufts per inch. A clamp is attached to the forward edge of the movable carriage to permit holding the specimen on the carriage during the brushing operation.

(3) After the specimen has been put in place on the carriage and fastened by means of the clamp, the brush is raised, the carriage pushed to the dear, and the brush lowered to the face of the specimen. The carriage is then drawn forward by hand at a uniform rate.

(d) *Dry cleaning.*—A swatch from each sample, as mentioned in paragraph (a)(4) of this section, shall be subjected to the following dry-cleaning procedure.

(1) *Apparatus.*—The apparatus is a cylinder, preferably of metal, approximately 13 inches high and about 8¾ inches in diameter (capacity 3 gallons). The cylinder is mounted in a vertical position on an axis which is inclined 50° to the axis of the cyinder, and is rotated about this axis at a speed of 45 to 50 revolutions per minute.

(2) *Cleaning procedure.*—The apparatus is filled approximately one-third with perchlorethylene to which is added 270 ml of dry-cleaning soap.[k] The swatches and sufficient suitable worsted cloth,[l] in pieces of approximately 12 by 12 inches, to make a total dry load of 1 pound are placed in the apparatus. It is operated for 25 minutes. The solution is poured out, the apparatus refilled to approximately one-third with fresh perchlorethylene without soap, and the apparatus is operated for an additional 5 minutes. This last operation is repeated three times. The swatches are then removed and the excess solvent removed from the swatches by any convenient means, such as rolling them between two layers of turkish toweling or between two layers of absorbent paper. They are then permitted to dry at room temperature.

(e) *Washing procedure.* — The swatches, after being subjected to the

[g] Other guides are specifically identified as the skyhook (G_1), the L-shaped guides (G_2, G_3) and a pigtail guide (G_5). See § 1610.61(c)(1) for a clarification of the stop cord position.

[f] Butane, c.p. No. 4 cylinders containing 2 pounds of butane may be obtained from, among others, the Matheson Co., Inc., East Rutherford, N.J.

[h] This device is manufactured by the United States Testing Co., 1415 Park Avenue, Hoboken, N.J.

[h] See § 1610.61(c)(2) for a clarification of the brushing technique for fabric with raised-fiber surfaces.

[i] See footnote h; This picture is a reproduction of the figure published in the original standard, and does not truly represent the Commission's interpretation of the proper position of the specimen during the brushing procedure (§ 1610.61(c)(2)). Specifically, the specimen in the picture appears to be below the level of the upper half of the specimen holder while the clarification requires the specimen to be placed above this level. Also, § 1610.61(c)(1) allows for the use of L-shaped guides.

[k] The soap shall be made by dissolving 56 grams of caustic potash (KOH) in 100 ml of water. The potassium hydroxide solution shall be poured slowly, with constant stirring, into a mixture of 340 grams of oleic acid, 400 ml of Stoddard solvent (Commercial Standard CS3-40 grade), and 100 ml of tertiary butyl alcohol or an equal quantity of butyl cellosolve.

[l] A suitable worsted test fabric known as Moth Test cloth may be obtained from Testfabrics, Inc., 55 Van Dam St., New York 13, N.Y.

dry-cleaning procedure (paragraph (d) of this section), shall then be immersed and worked gently for 5 minutes in a bath of soft water in which 0.5-percent neutral chip soap has been dissolved. The volume of the bath shall be 30 times the weight of the swatches and the temperature shall be between 95° and 100° F. The swatches shall then be rinsed twice in water at 80° F., extracted, and dried. The individual specimens, each 2 by 6 inches, are then cut out as described in paragraph (a)(5) of this section and tested as described in paragraphs (f) and (g) of this section.

(f) *Brushing and drying specimens.*—Each specimen having a raised-fiber surface, in its original condition or after dry cleaning and washing, is placed on the brushing device carriage (paragraph (c) of this section) and drawn under the brush once against the lay of the raised-fiber surface (see fig. 4). Other specimens do not require brushing. All specimens are clamped individually in the specimen holders of the flammability tester (paragraph (b)(3) of this section), with the staple on top and the stapled end at the closed end of the holder. They are then dried in a horizontal position in an oven for 30 minutes at 221° F (105° C), removed from the oven, and placed over anhydrous calcium chloride in a desiccator until cool, but for not less than 15 minutes.

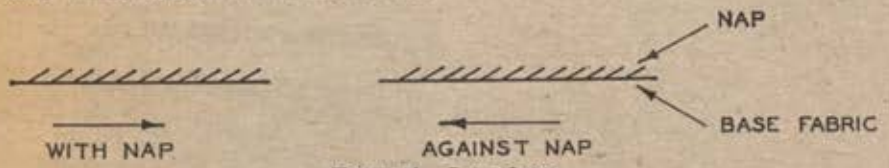


FIGURE 4.—Lay of nap.

(g) *Procedure for testing flammability.* (1) Adjust the position of the rack of the flammability tester (paragraph (b)(2) of this section) with a holder and trial specimen (not a prepared specimen) in position, so that the tip of the indicator finger touches the face of the specimen.

(2) Open the control valve in the fuel supply. Allow approximately 5 minutes for the air to be drawn from the fuel line, ignite the gas and adjust the flame to a length of ⅝ inch, measured from its tip to the opening in the gas nozzle.

(3) Remove the mounted specimen from the desiccator and place it in position on the rack in the chamber of the apparatus.

(4) See that the stop cord (No. 50 cotton sewing thread) is strung through the guides in the upper plate of the specimen holder across the top of the specimen, and through the guides at the rear of the chamber over the guide ring, and that the weight is hooked in place close to and just below the guide ring. Set the stop watch at zero. Close the door of the apparatus. Conduct the test in a draft-free room with the apparatus at room temperature.

(5) Bring the starting lever over to the extreme right and release it. This starts the timing mechanism and applies the flame to the specimen for a period of 1 second. This should be done within 45 seconds of the time the specimen was removed from the desiccator. Timing is automatic, starting upon application of the flame and ending when the weight is released by the burning of the stop cord.

(6) Record the time of flame spread (reading of stop watch) of each specimen and note whether the base of each specimen having a raised-fiber surface is ignited or fused to a point where the damage is apparent from the bottom of the specimen.

(7) *Results.* (i) *Time of flame spread.*—The time of flame spread of the textile is taken as an average time for 5 specimens. Results of tests of specimens before and after dry cleaning and washing shall be recorded and reported separately. If the time of flame spread is less than 4 seconds[8] or if the specimens do not burn, test 5 additional specimens. The time of flame spread is then taken to be the average time for the 10 specimens or for as many of them as burn.

(ii) *Base fabric ignition or fusing.*—Base fabric ignition or fusing of textiles having raised-fiber surfaces shall be reported when the base fabric of more than 1 of the 5 (or 2 of the 10) specimens tested ignites or fuses.[9]

(8) *Reporting results.*—The reported result shall be the flammability before or after dry cleaning and washing, whichever is the lower; and, based on this result, the textile shall be placed in the proper classification as given in § 1610.3.

§ 1610.5 Notes.

The methods of test and classifications outlined herein agree with all essential requirements of the Standard Test Method for Flammability of Clothing Textiles, of the American Association of Textile Chemists and Colorists.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 15 U.S.C. 1194, unless otherwise noted.

NOTE: An interpretation, with respect to Ornamental Veils or Veilings, issued by the Federal Trade Commission at 32 F.R. 11850, Aug. 17, 1967, provides as follows:

Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a "covering for the neck, face, or shoulders" as would, under the first proviso of section 2(d) of the Flammable Fabrics Act, cause the hat to be included within the definition of the term "article of wearing apparel" where such ornamental millinery veils or veilings do not extend more than nine (9) inches from the tip of the crown of the hat to which they are attached and do not extend more than two (2) inches beyond the edge of the brim of the hat.

Where hats are composed entirely of ornamental millinery veils or veilings such hats will not be considered as subject to the Flammable Fabrics Act if the veils or veilings from which they are manufactured were not more than nine (9) inches in width and do not extend more than nine (9) inches from the tip of the crown of the completed hat.

§ 1610.31 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The term "act" means the "Flammable Fabrics Act" (approved June 30, 1953, Pub. Law 88, 83d Congress, 1st sess., 15 U.S.C. 1191; 67 Stat. 111) as amended, 68 Stat. 770, August 23, 1954.

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories, and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended in 1967.

(e) The terms "uncovered or exposed part" of an article of wearing apparel as used in section 4(a) of the act, mean that part of such article of apparel which might during normal wear be open to flame or other means of ignition.

NOTE: The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel, and thus subject to the act.

(f) The term "textile fabric" means any coated or uncoated material subject to the act, except film and fabrics having a nitro-cellulose fiber, finish, or coating, which is woven, knitted, felted or otherwise produced from any natural or man-made fiber, or substitute therefor, or combination thereof, of two inches or more in width, and which is in a form or condition ready for use in wearing apparel.

(g) The term "plain surface textile fabric" means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces.

(h) The term "raised surface textile fabric" means any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap, or tufting.

(i) The term "film" means any nonrigid, unsupported plastic, rubber or

[8] In the Flammable Fabrics Act, Congress adopted CS 191–53 as the Commercial Standard to be applied under the law.

On August 23, 1954, the Flammable Fabrics Act was amended, changing the test for the time of flame spread for plain-surfaced fabrics, provided in paragraphs 3.1.1.1 and 3.1.3.1 [codified as §§ 1610.3(a)(1)(i) and 1610.3(a)(3)(1)], by reducing the burning time from 4 to 3½ seconds.

For the purposes of the administration of that act, therefore, the 3½-second burning time for plain-surfaced fabrics is applicable.

[9] See § 1610.61(c)(3) for a clarification of the criterion for a classification of Class 3.

other synthetic or natural film or sheeting, subject to the act, or any combination thereof, including transparent, translucent, and opaque material, whether plain, embossed, molded, or otherwise surface treated, which is in a form or condition ready for use in wearing apparel, and shall include film or sheeting exceeding 10 mils in thickness.

(j) The term "test" means the application of the relevant test method prescribed in the procedures provided under section 4(a) of the act.

(k) The term "initial test" means tests made under the procedures prescribed in section 4(a) of the act of specimens taken from two separate pieces of a textile fabric, or textile fabric with a nitrocellulose fiber, finish or coating, having the same weight, construction and finish type, or from two separate runs of film having the same formula, finish, color, and thickness.

(l) The term "finish type" means a particular finish, but does not include such variables as changes in color, pattern, print, or design, or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types would be starch finishes, resin finishes or parchmentized finishes.

(m) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1610.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4 (a) of the act, is so highly flammable as to be dangerous when worn by individuals.

§ 1610.33 Test procedures for textile fabrics and film.

(a) (1) All textile fabrics (except those with a nitro-cellulose fiber, finish or coating) intended or sold for use in wearing apparel, and all such fabrics contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such articles of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in Subpart A of this Part, and identified as "Flammability of Clothing Textiles, Commercial Standard 191–53".

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, coated fabrics, except those with a nitrocellulose coating, may be tested under the procedures outlined in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192–53", and if such coated fabrics do not exhibit a rate of burning in excess of that specified in § 1611.3 they shall not be deemed to be so highly flammable as to be dangerous when worn by individuals.

(b) All film, and textile fabrics with a nitro-cellulose fiber, finish or coating intended or sold for use in wearing apparel, and all film and such textile fabrics referred to in this rule which are contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such film or such textile fabrics or any uncovered or exposed part of such articles of wearing apparel exhibit a rate of burning in excess of that specified in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192–53."

§ 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

§ 1610.35 Testing certain classes of fabrics.

(a) Any textile fabric intended for use in, or used, or contained in an article of wearing apparel, which in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not, upon test made under the procedures outlined in Subpart A of Part 1610 be dry cleaned or washed as prescribed by §§ 1610.4(d) and 1610.4(e) if such fabric and article of wearing apparel when marketed or handled are marked or labeled in a clear and legible manner stating "Fabric will be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to is bridal illusion.

(b) A coated fabric need not, upon test under the procedures outlined in Subpart A of Part 1610, be dry cleaned as set forth in § 1610.4(d).

(c) In determining whether a textile fabric having a raised-fiber surface, which surface is to be used in the covered or unexposed parts of articles of wearing apparel, is so highly flammable as to be dangerous when worn by individuals, only the opposite surface or surface intended to be exposed need be tested under the applicable procedures set forth in section 4(a) of the act, providing an invoice or other paper covering the marketing or handling of such fabric is given which clearly designates that the raised-fiber surface is to be used only in the covered or unexposed parts of articles of wearing apparel.

(d) A textile fabric which is less than six inches in width need only, upon test under the procedures outlined in Subpart A of Part 1610, be tested in a lengthwise direction.

§ 1610.36 Applications of act to particular types of products.

(a) Fabrics intended or sold for processing into interlinings or other covered or unexposed parts of articles of wearing apparel shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended end use: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition and intended end use of such fabrics, and any person manufacturing articles of wearing apparel containing such fabrics maintains records which show the acquisition, and use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(b) Fabrics intended or sold for use in those hats, gloves, and footwear which are excluded under the definition of articles of wearing apparel in section 2(d) of the act shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended use in such products: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition, and intended end use of such fabrics, and any person manufacturing hats, gloves, or footwear containing such fabrics maintains records which show the acquisition, end use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the Act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(c) Except as provided in paragraph (d) of this section, handkerchiefs not exceeding a finished size of twenty-four (24) inches on any side or not exceeding five hundred seventy-six (576) square inches in area are not deemed "articles of wearing apparel" as that term is used in the act.

(d) Handkerchiefs or other articles affixed to, incorporated in, or sold as a part of articles of wearing apparel as decoration, trimming, or for any other purpose, are considered an integral part

of such articles of wearing apparel, and the articles of wearing apparel and all parts thereof are subject to the provisions of the act. Handkerchiefs or other articles intended or sold to be affixed to, incorporated in or sold as a part of articles of wearing apparel as aforesaid constitute "fabric" as that term is defined in section 2(e) of the act and are subject to the provisions of the act which such handkerchiefs or other articles constitute textile fabrics as the term "textile fabric" is defined in § 1610.31(f).

(e) Where an article of wearing apparel has a raised-fiber surface which is intended for use as a covered or unexposed part of the article of wearing apparel but the article of wearing apparel is, because of its design and construction, capable of being worn with the raised-fiber surface exposed, such raised-fiber surface shall be considered to be an uncovered or exposed part of the article of wearing apparel. Examples of the type of products referred to in this paragraph are athletic shirts or so-called "sweat shirts" with a raised-fiber inner side.

NOTE.—An interpretation to § 302.0(c) issued by the Federal Trade Commission, 30 F.R. 16106, Dec. 28, 1965, provides as follows:

"§ 1610.36(c) does not exclude products from the act on the sole basis of the size, description or designation of such product.

"If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type or any other product of a finished type appears to be likely to be used as a covering for the head, neck, face, shoulders, or any part thereof, or otherwise appears likely to be used as an article of clothing, garment, or costume, such product is not a handkerchief and constitutes an article of wearing apparel as defined in and subject to the provisions of the Flammable Fabrics Act, irrespective of its size, or its description or designation as a handkerchief or any other term."

§ 1610.37 Reasonable and representative tests under section 8 of the act.

EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4(a) of the act show that the fabric covered by the guaranty, or used, or contained in the wearing apparel, is not, under the provisions of section 4(a) of the act, so highly flammable as to be dangerous when worn by individuals.

While one establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, or the merchandise involved, would nevertheless, remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act, as well as the injunction and condemnation procedures under section 6 of the act.

The furnishing of guaranties is not mandatory under the act. The purpose of this rule is to establish minimum requirements for the reasonable and representative tests on which guaranties may be based.

(a) The following shall constitute reasonable and representative tests, as that term is used in section 8 of the act, for those textile fabrics which by reason of their composition, construction, finish type or weight may be tested upon a class basis. The word "class" as used in this section means a category of textile fabrics having certain general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized by the trade. In certain instances the use of class tests is restricted by this section to a particular textile fabric of the same fiber composition, construction and finish type. The results of such class tests may be used by any person as a basis for furnishing guaranties under section 8 of the act on all textile fabrics of the same class.

(1) *Plain surface textile fabrics weighing two ounces or more per square yard.* (i) One test of nay plain surface textile fabric weighing two ounces or more per square yard, exclusive of metallic ornamentation, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(2) *Plain surface textile fabrics weighing less than two ounces per square yard.* (i) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric exhibits a burning time of 3.5 seconds or more, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than three months thereafter while in production. If, after four consecutive interval production tests have been made, none of such test results show the flame spread to have been less than 4.5 seconds, no further tests of such class of fabric need be made.

(ii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, none of the specimens ignite, such initial test may suffice for any fabric of the same fiber composition, construction and finish type.

(iii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric ignites but the flame is extinguished before the stop cord is burned, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than one year thereafter while in production.

(3) *Certain raised fiber surface textile fabrics.* (i) When a test of any raised fiber surface textile fabric which has a dense cut pile of uniform short length or looped yarns, does not exhibit a surface flash and does not ignite, such test shall suffice for any such fabric having a dense cut pile of the same length or the same looped yarns and of the same fiber composition, construction and finish type. Examples of the types of fabrics referred to are velvets, velveteens, velours, and corduroys.

(ii) One test of any raised fiber surface textile fabric, the raised fiber surface of which consists of not less than ninety percentum (90%) protein fiber, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(iii) When, on the initial test of any raised surface textile fabric which has a surface composed of looped yarns, such fabric exhibits a burning time in excess of 12 seconds, such test may suffice for any such fabric having the same looped yarns and of the same fiber composition, construction and finish type. An example of the type of fabric referred to is "terry cloth".

(b) Raised fiber surface textile fabrics: When, on the initial test of a raised fiber surface textile fabric, such fabric:

(1) (i) Falls within Class 2 as provided in § 1610.3(a)(2)(i), the fabric shall be tested at least once at intervals of not more than one month while in production, or if the production exceeds 50,000 yards per month, the fabric shall be tested thereafter every 50,000 yards or fraction thereof.

(ii) If, after two such intervals, production tests have been made, the test results do not show the flame spread to have been less than 4 seconds, with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than three months while in production, or if the production exceeds 100,000 yards per three months, the fabric shall be tested thereafter every 100,000 yards or fraction thereof.

(2) Has a flame spread in excess of 7 seconds with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(3) Has a surface flash, but the base fabric does not ignite nor fuse, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(4) Does not have a surface flash and does not ignite, the initial test shall suffice.

(c) When, on initial test a film or a textile fabric with a nitro-cellulose fiber, finish or coating, does not exhibit a burning rate in excess of 1.2 inches per second, one test each year thereafter while in production shall be deemed reasonable and representative tests for such film or textile fabric.

(d) Reasonable and representative tests of fabrics and fabrics contained in articles of wearing apparel, subject to the act, produced prior to the effective date of the act, and which have not been tested under the applicable requirements of paragraphs (a), (b), or (c) of this section, shall be an initial test for each class of such fabrics, and such tests shall be applicable to all fabrics having the same fiber composition, construction and finish type.

(e) In the case of articles of wearing apparel which are not made from fabrics but directly from yarns, the fabrics con-

tained in such articles of wearing apparel shall be tested by the testing requirements provided in paragraphs (a) and (b) of this section.

(f) Where fabrics or fabrics contained in articles of wearing apparel have not been tested when in production by the applicable testing requirements provided in paragraphs (a), (b) or (c) of this section, one test of each such fabrics shall be made every 10,000 yards or fraction thereof, or of the fabric contained in one of every 5,000 of such articles of wearing apparel or fraction thereof, and these shall be deemed reasonable and representative tests of such fabrics.

(g) In the case of textile fabrics or textile fabrics contained in articles of wearing apparel having an appliqued, overstitched, or embroidered type of design, of a loop, pile, nap, or tufted construction, tests shall be conducted according to paragraph (b) of this section on each type of applique, overstitch, or embroidery.

(h) If tests of any textile fabric made subsequent to the initial test show a burning time of another category, then such fabric shall be tested thereafter under the testing requirements of such changed time.

(i) The application of this section, insofar as it relates to the testing of plain surface textile fabrics or such fabrics contained in articles of wearing apparel weighing two ounces or more per square yard, shall be limited to fabrics made of fibers in use or capable of being used as of May 31, 1954. Such fabrics weighing two ounces or more per square yard made in whole or in part of fibers developed and used subsequent to May 31, 1954, shall be tested in accordance with the testing requirements set out in paragraph (a)(2) of this section.

§ 1610.38 Maintenance of records by those furnishing guaranties.

(a) In order to properly administer and enforce section 8 of the act relating to guaranties, it is required that any person furnishing either a separate or continuing guaranty who has made the tests prescribed by the act and regulations shall keep and maintain records of such tests. The records to be maintained shall show:

(1) The style or range number, fiber composition, construction and finish type of each textile fabric and each textile fabric (including those with a nitrocellulose fiber, finish or coating) used or contained in an article of wearing apparel covered by the guaranty, including a swatch of the fabric tested.

(2) The stock or formula number, color, thickness and general description of each film or film used in an article of wearing apparel covered by the guaranty, including a sample of the film tested.

(3) The results of the actual tests made on the textile fabric and film or the fabric and film used or contained in an article of wearing apparel.

(b) Persons furnishing guaranties based upon class tests shall maintain records showing:

(1) Identification of the class test.

(2) Fiber composition, construction and finish type of the fabrics, or the fabrics used or contained in articles of wearing apparel so guaranteed.

(3) A swatch of each class of fabrics guaranteed.

(c) Persons furnishing guaranties based upon guaranties received by them shall maintain records showing:

(1) The guaranty received and identification of the fabrics or fabrics contained in articles of wearing apparel guaranteed in turn by them.

(d) The records referred to in this section shall be preserved for a period of three years from the date the tests were performed, or in the case of paragraph (c) of this section the guaranties were furnished.

(e) Any person furnishing a guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

§ 1610.39 Shipments under section 11 (c) of the act.

(a) The invoice or other paper relating to the shipment or delivery for shipment in commerce of articles of wearing apparel or textile fabrics for the purpose of finishing or processing to render them not so highly flammable as to be dangerous when worn by individuals, shall contain a statement disclosing such purpose.

(b) An article of wearing apparel or textile fabric shall not be deemed to fall within the provisions of section 11(c) of the act as being shipped or delivered for shipment in commerce for the purpose of finishing or processing to render such article of wearing apparel or textile fabric not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, unless the shipment or delivery for shipment in commerce of such article of wearing apparel or textile fabric is made direct to person engaged in the business of processing or finishing textile products for the prearranged purpose of having such article of apparel or textile fabric processed or finished to render it not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, and any person shipping or delivering for shipment the article of wearing apparel or fabric in commerce for such purpose maintains records which establish (1) that the textile fabric or article of wearing apparel has been shipped for appropriate flammability treatment, and (2) that such treatment has been completed, as well as records to show the disposition of such textile fabric or article of wearing apparel subsequent to the completion of such treatment.

(c) The importation of textile fabrics or articles of wearing apparel may be considered as incidental to a transaction involving shipment or delivery for shipment for the purpose of rendering such textile fabrics or articles of wearing apparel not so highly flammable under the provisions of section 4 of the act, as to be dangerous when worn by individuals, if:

(1) The importer maintains records which establish (i) that the imported textile fabrics or articles of wearing apparel have been shipped for appropriate flammability treatment, and (ii) that such treatment has been completed, as well as records to show the disposition of such textile fabrics or articles of wearing apparel subsequent to the completion of such treatment.

(2) The importer, at the time of importation, executes and furnishes to the Bureau of Customs an affidavit stating:

These fabrics (or articles of wearing apparel) are dangerously flammable under the provisions of section 4 of the Flammable Fabrics Act, and will not be sold or used in their present condition but will be processed or finished by the undersigned or by a duly authorized agent so as to render them not so highly flammable under the provisions of section 4 of the Flammable Fabrics Act, as to be dangerously flammable when worn by individuals. The importer agrees to maintain the records required by 16 CFR 1610.39 (c)(1).

(3) The importer, if requested to do so by the Bureau of Customs, furnishes an adequate specific-performance bond conditioned upon the complete discharge of the obligations assumed in subparagraph (1) and (2) of this paragraph.

NOTE: The purpose of section 11(c) is only to permit articles of wearing apparel or textile fabrics which are dangerously flammable to be shipped or delivered for shipment in commerce for the purpose of treatment or processing to render them not dangerously flammable. Section 11(c) does not in any other respect limit the force and effect of sections 3, 6, 7, and 9 of the act. In particular, section 11(c) does not authorize the sale or offering for sale of any article of wearing apparel or textile fabric which is in fact dangerously flammable at the time of sale or offering for sale, even though the seller intends to ship the article for treatment prior to delivery to the purchaser or has already done so. Moreover, under section 3 of the act a person is liable for a subsequent sale or offering for sale if, despite the purported completion of treatment to render it not dangerously flammable, the article in fact remains dangerously flammable.

Subpart C—Interpretations and Policies

§ 1610.61 Clarification of flammability standard for clothing textiles (CS 191–53).

(a) *Background.* (1) The Flammable Fabrics Act, which became effective July 1, 1954 (Public Law 83–88, 67 Stat. 111–15), adopted Commercial Standard 191–53 as a mandatory flammability standard to be applied under that act (CS 191–53 had been a voluntary commercial standard, entitled "Commercial Standard 191–53, Flammability of Clothing Textiles," which became effective January 20, 1953).

(2) On August 23, 1954, the Flammable Fabrics Act was amended (68 Stat. 770) to reduce the burning time for flame spread as provided in CS 191–53.

(3) As amended and revised December 14, 1967 by Public Law 90–189 (81 Stat. 568–74), the Flammable Fabrics Act no longer specifically referred to CS 191–53; however, Public Law 90–189 contained a "savings clause" (section 11), which continued the applicability of any standard effective under the act theretofore until superseded or modified. No such change occurred thereafter to CS 191–53 which, accordingly, continues to be a mandatory flammability standard under the act.

(b) *Need for clarification.* It has been brought to the attention of the Consumer Product Safety Commission that lack of clarity in CS 191–53 regarding (1) the positioning of the stop cord, (2) the technique for brushing fabrics with raised-fiber surface, and (3) the criterion for failure of a fabric with a raised-fiber surface results in variations in the way tests are conducted or results are interpreted under the standard, thereby making both compliance with and enforcement of the standard under the Flammable Fabrics Act needlessly contentious.

(c) *Clarifying interpretations.* To alleviate this situation, the Consumer Product Safety Commission adopts the following interpretations on these subjects for CS 191–53:

(1) *Stop cord.* The stop cord shall be three-eighths of an inch above and parallel to the lower surface of the top plate of the specimen holder. This condition can be achieved easily and reproducibly with the use of L-shaped guides and an additional thread guide popularly referred to as a "sky hook." The essential condition, however, is the uniform height of three-eighths of an inch for the stop cord and not the number, placement, or design of the thread guides.

(2) *Brushing.* Brushing of a specimen shall be performed with the specimen mounted in a specimen holder. The purpose of the metal plate or "template" on the carriage of the brushing device is to support the specimen during the brushing operation. Accordingly, such template should be one-eighth of an inch thick.

(3) *Criterion for failure.* In the case of those fabrics having a raised-fiber surface for which a flame spread time of less than 4 seconds occurs and is the result of surface burning (sometimes referred to as "surface flash"), the additional finding of base fabric ignition or fusion that is required to establish a failure shall have to be associated with the propagating surface flame and not the igniting flame.

(Sec. 1 et seq., 67 Stat. 111–15, as amended 68 Stat. 770, 81 Stat. 568–74 (15 U.S.C. 1191–1204, note under 1191).)

PART 1611—STANDARD FOR THE FLAMMABILITY OF VINYL PLASTIC FILM

Subpart A—The Standard

Sec.

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CODIFICATION NOTE: Part 1611 is a codification of the previously unpublished flammability standard for vinyl plastic film which was derived from part of the requirements of Commercial Standard 192–53, issued by the Department of Commerce, effective on May 22, 1953. This flammability standard became mandatory through section 4(a) of the Flammable Fabrics Act, as amended in 1954, and remains in effect due to the savings clause (section 11) of Pub. L. 90–189. Paragraph 3.11 of the Commercial Standard, referred to in the 1954 act, has been codified as § 1611.3 16 CFR Part 1609 contains the text of the Flammable Fabrics Act of 1953, as amended in 1954.

Subpart A—The Standard

AUTHORITY: Sec. 4, Pub. L. 83–88, 67 Stat. 112, as amended, 68 Stat. 770 (15 U.S.C. 1193); sec. 11, Pub. L. 90–189, 81 Stat. 568.

§ 1611.1 Purpose and scope.

The purpose of this standard is to promulgate a minimum standard for flammability of vinyl plastic film which are subject to the requirements of the Flammable Fabrics Act.

§ 1611.2 General description of products covered.

The material covered is nonrigid, unsupported, vinyl plastic film, including transparent, translucent, and opaque material, whether plain, embossed, molded or otherwise surface treated.*

*Refer to sections 2 and 4 of the Flammable Fabrics Act of 1953, as amended in 1954, set out at 16 CFR Part 1609 for the scope of this standard. The vinyl plastic film covered by Commercial Standard 192–53, as promulgated by the Secretary of Commerce was vinyl plastic film 10 mils and less in thickness (see § 1.3 of the voluntary standard). After CS 191–53 and CS 192–53 were made mandatory by section 4 of the act, the Federal Trade Commission clarified the scope of the standards in rules and regulations now found at §§ 1611.31(i) and 1611.33(b) (formerly 16 CFR 302.1(a)(9) and 302.3(b)).

§ 1611.3 Flammability—general requirement.

The rate of burning shall not exceed 1.2 in./sec as judged by the average of five determinations lengthwise and five determinations transverse to the direction of processing, when the material is tested with the SPI flammability tester in accordance with the method described in § 1611.4.

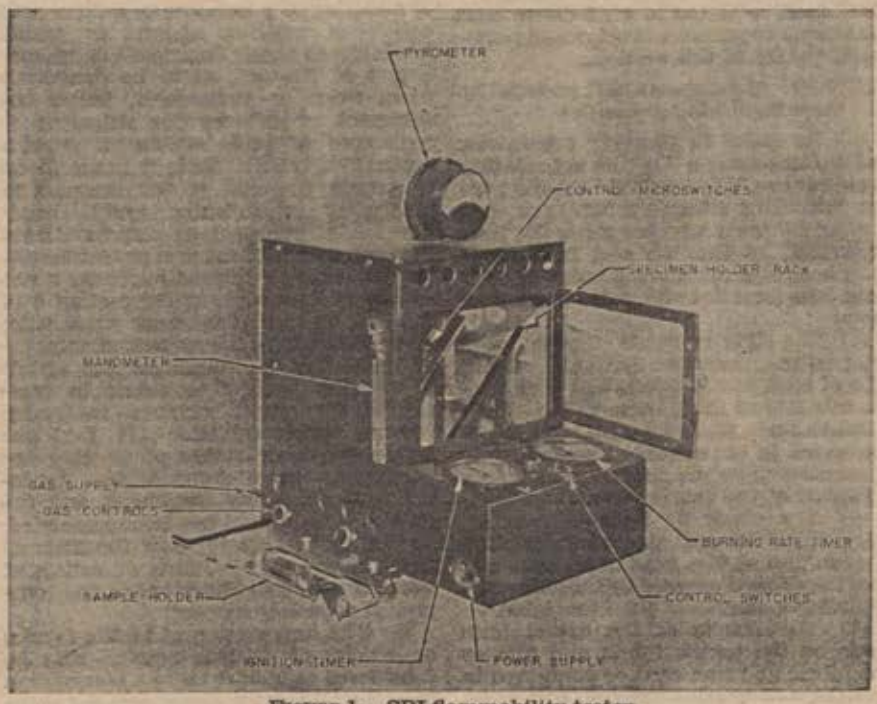


FIGURE 1.—SPI flammability tester.

§ 1611.4 Flammability test.

(a) *Apparatus and materials.*—The apparatus shall be constructed essentially as shown in figure 1 and shall consist of the following:

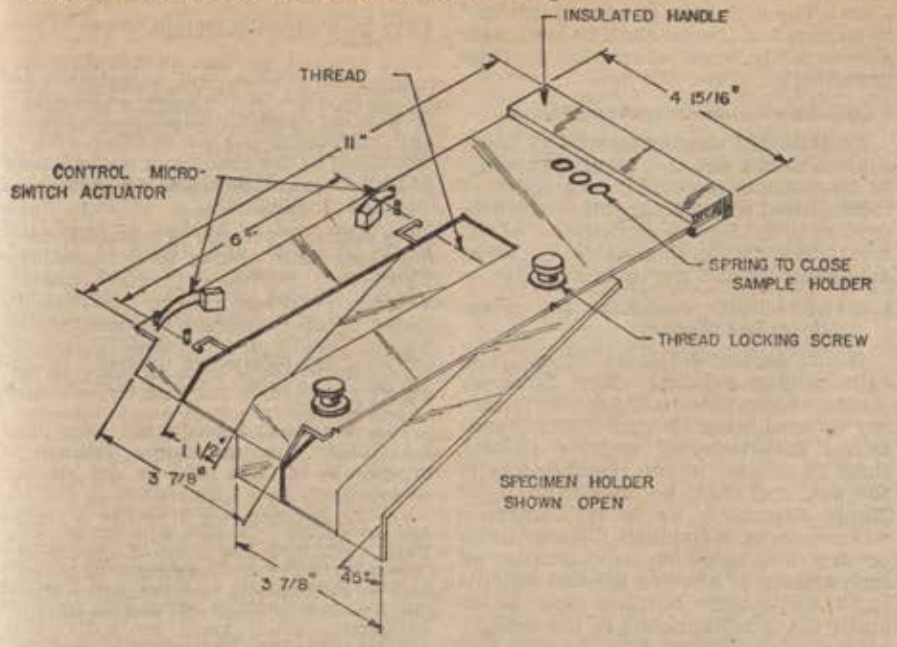


FIGURE 2.—Specimen holder.

(1) *Specimen holder.*—(i) A removable, flat, specimen-holding rack, the upper and lower sections of which are separate, shall have the shape and dimensions shown in figure 2 (sketch of sample-holding rack). The specimen is supported by tight closure of the upper and lower sections around the sides of the specimen. The center section of the rack contains an open U-shaped area in which burning of the specimen takes place. At the open end of the rack the forked sides are at an angle of 45° for the last inch. Thus, when the rack is slid into the cabinet on runners mounted at a 45° angle, the bent portion of the specimen adjacent to the igniter flame is vertical and the remainder is at 45°.

(ii) The switch actuators consist of suitable springs mounted on the side of the rack, one just beyond the curved portion at the open end, and the other at the closed end of the U-shaped holder. The springs are depressed and held in position prior to ignition by means of cotton thread suitably wound across the specimen and securely attached to the rack. As flame reaches these threads, the springs are released, thus activating the microswitches of the stop clocks.

(2) *Igniter flame.*—The igniter flame shall be produced at the tip of a No. 22 hypodermic needle jet. The igniter shall be so located in the cabinet that the tip of the needle is $^{3}/_{16}$ in. from the surface of the specimen when the specimen rack is in place.

(3) *Cabinet.*—The cabinet shall protect the igniter flame and specimen from air currents during tests, yet contain a suitable door or window for visual operation, provision for inserting the specimen holder, and adjustable vents to supply sufficient air for combustion of the specimen. It should also be capable of rapid ventilation following a test so that all combustion products can be removed between tests. A hood may be used if its exhaust fan is turned off during the test.

(4) *Timing mechanism.*—The burning rate shall be determined by a stop clock through microswitches mounted on the specimenholder rack. The clock is started when the specimen flame burns the first thread, and is stopped when the thread at the upper end of the holder, 6 in. from the first thread, burns apart. The timing mechanism shall be capable of indicating time interval to 0.1 second.

(5) *Butane.*—Unless otherwise specified, butane gas shall be used for the igniter flame.

(6) *Thread.*—J. & P. Coats heavy-duty white cotton thread.

(7) *Microburner.*

(b) *Test specimens.* (1) Test specimens shall be 3 in. in width and 9 in. in length. They shall be free from folds or wrinkles. Five specimens from each direction (machine and transverse) of a given material shall be tested.

(2) *Conditioning.*—The conditioning procedure shall conform to the requirements of procedure B of ASTM D618, Tentative Methods of Conditioning Plastics and Electrical Insulating Materials for Testing.

(c) *Procedure.* (1) After preparing the specimens, the holder shall be threaded so as to depress the switch actuators (springs) at least ¼ in. from the edge of the holder. Each actuator shall be separately threaded, the thread passing down through the J-slots and under the upper jaws so that the thread is adjacent to the specimen when the holder is closed.

(2) The specimen shall be inserted into the holder so that it extends down into the lock springs and is held firmly between the two wires at the open end of the burning channel. These wires insure that the end of the specimen is always the correct distance from the igniter flame. The sample shall be free from wrinkles or distortion when the holder is closed. The specimen should not extend beyond the outer edge of the lower plate, otherwise the rack may not slide freely on the slide channel on introducing it into the cabinet.

(3) Prior to introducing the specimen and holder into the cabinet, both electical switches shall be set for automatic timing. The needle valve regulating the butane flow shall be adjusted to provide a ½-in. flame. (When the specimen is in place its surface is $^{3}/_{8}$ in. from the tip of the needle and the flame is just barely flattened against the specimen. This can be checked by using a specimen made of asbestos in place of a plastic specimen.).

(4) With the hood fan off, clocks zeroed, and the flame adjusted as mentioned, the door is closed and the specimen holder is then inserted at a constant rate. The holder should be allowed to slide down the rails by gravity, taking about one-half second to travel the length of the slide. Any hesitation in bringing the specimen holder fully into burning position may cause erroneous ignition results.

(5) The burning time shall be read from the stop clock and the rate of burning calculated. Results that deviate from the mean value of all tests should be rejected if the deviation of the doubtful value is more than five times the average deviation from the mean obtained by excluding the doubtful value. Such doubtful values shall be discarded and retests made.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 15 U.S.C. 1194, unless otherwise noted.

NOTE: An interpretation, with respect to Ornamental Veils or Veilings, issued by the Federal Trade Commission at 32 F.R. 11850, Aug. 17, 1967, provides as follows:

Ornamental millinery veils or veilings when used as a part of, in conjunction with, or as a hat, are not to be considered such a "covering for the neck, face, or shoulders" as would, under the first proviso of section 2(d) of the Flammable Fabrics Act, cause the hat to be included within the definition of the term "article of wearing apparel" where such ornamental millinery veils or veilings do not extend more than nine (9) inches from the tip of the crown of the hat to which they are attached and do not extend more than two (2) inches beyond the edge of the brim of the hat.

Where hats are composed entirely of ornamental millinery veils or veilings such hats will not be considered as subject to the Flammable Fabrics Act if the veils or veilings from which they are manufactured were not more than nine (9) inches in width and do not extend more than nine (9) inches from the tip of the crown of the completed hat.

§ 1611.31 Terms defined.

As used in this part, unless the context otherwise specifically requires:

(a) The term "act" means the "Flammable Fabrics Act" (approved June 30,

1953, Pub. Law 88, 83d Congress, 1st sess., 15 U.S.C. 1191; 67 Stat. 111), as amended, 68 Stat. 770, August 23, 1954.

(b) The terms "rule", "rules", "regulations", and "rules and regulations", mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term "United States" means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories and Possessions of the United States.

(d) The terms "marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended in 1967.

(e) The terms "uncovered or exposed part" of an article of wearing apparel as used in section 4(a) of the act, mean that part of such article of apparel which might during normal wear be open to flame or other means of ignition.

NOTE: The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel, and thus subject to the act.

(f) The term "textile fabric" means any coated or uncoated material subject to the act, except film and fabrics having a nitro-cellulose fiber, finish, or coating, which is woven, knitted, felted or otherwise produced from any natural or man-made fiber, or substitute therefore, or combination thereof, of two inches or more in width, and which is in a form or condition ready for use in wearing apparel.

(g) The term "plain surface textile fabric" means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces.

(h) The term "raised surface textile fabric" means any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap, or tufting.

(i) The term "film" means any non-rigid, unsupported plastic, rubber or other synthetic or natural film or sheeting, subject to the act, or any combination thereof, including transparent, translucent, and opaque material, whether plain, embossed, molded, or otherwise surface treated, which is in a form or condition ready for use in wearing apparel, and shall include film or sheeting exceeding 10 mils in thickness.

(j) The term "test" means the application of the relevant test method prescribed in the procedures provided under section 4(a) of the act.

(k) The term "initial test" means tests made under the procedures prescribed in section 4(a) of the act of specimens taken from two separate pieces of a textile fabric, or textile fabric with a nitro-cellulose fiber, finish or coating, having the same weight, construction and finish type, or from two separate runs of film having the same formula, finish, color, and thickness.

(l) The term "finish type" means a particular finish, but does not include such variables as changes in color, pattern, print, or design, or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types would be starch finishes, resin finishes or parchmentized finishes.

(m) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1611.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the act, is so highly flammable as to be dangerous when worn by individuals.

§ 1611.33 Test procedures for textile fabrics and film.

(a) (1) All textile fabrics (except those with a nitro-cellulose fiber, finish or coating) intended or sold for use in wearing apparel, and all such fabrics contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such fabrics or any uncovered or exposed part of such articles of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in Subpart A of this Part, and identified as "Flammability of Clothing Textiles, Commercial Standard 191–53".

(2) Notwithstanding the provisions of subparagraph (1) of this paragraph, coated fabrics, except those with a nitro-cellulose coating, may be tested under the procedures outlined in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192–53", and if such coated fabrics do not exhibit a rate of burning in excess of that specified in § 1611.3 they shall not be deemed to be so highly flammable as to be dangerous when worn by individuals.

(b) All film, and textile fabrics with a nitro-cellulose fiber, finish or coating intended or sold for use in wearing apparel, and all film and such textile fabrics referred to in this rule which are contained in articles of wearing apparel, shall be subject to the requirements of the act, and shall be deemed to be so highly flammable as to be dangerous when worn by individuals if such film or such textile fabrics or any uncovered or exposed part of such articles of wearing apparel exhibit a rate of burning in excess of that specified in Part 1611, the flammability standard incorporated in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192–53."

§ 1611.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

§ 1611.35 Testing certain classes of fabrics.

(a) Any textile fabric intended for use in, or used, or contained in an article of wearing apparel, which in its normal and customary use as wearing apparel would not be dry cleaned or washed, need not, upon test made under the procedures outlined in Subpart A of Part 1610, be dry cleaned or washed as prescribed by §§ 1610.4(d) and 1610.4(e) if such fabric and article of wearing apparel when marketed or handled are marked or labeled in a clear and legible manner stating "Fabric will be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to is bridal illusion.

(b) A coated fabric need not, upon test under the procedures outlined in Subpart A of Part 1610, be dry cleaned as set forth in § 1610.4(d).

(c) In determining whether a textile fabric having a raised-fiber surface, which surface is to be used in the covered or unexposed parts of articles of wearing apparel, is so highly flammable as to be dangerous when worn by individuals, only the opposite surface or surface intended to be exposed need be tested under the applicable procedures set forth in section 4(a) of the act, providing an invoice or other paper covering the marketing or handling of such fabric is given which clearly designates that the raised-fiber surface is to be used only in the covered or unexposed parts of articles of wearing apparel.

(d) A textile fabric which is less than six inches in width need only, upon test under the procedures outlined in Subpart A of Part 1610, be tested in a lengthwise direction.

§ 1611.36 Application of act to particular types of products.

(a) Fabrics intended or sold for processing into interlinings or other covered or unexposed parts of articles of wearing apparel shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended end use: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition and intended end use of such fabrics, and any person manufacturing articles of wearing apparel containing such fabrics maintains records which show the acquisition, and use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person

and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(b) Fabrics intended or sold for use in those hats, gloves, and footwear which are excluded under the definition of articles of wearing apparel in section 2(d) of the act shall not be subject to the provisions of section 3 of the act: *Provided*, That an invoice or other paper covering the marketing or handling of such fabrics is given which specifically designates their intended use in such products: *And provided further*, That with respect to fabrics which under the provisions of section 4 of the act, as amended, are so highly flammable as to be dangerous when worn by individuals, any person marketing or handling such fabrics maintains records which show the acquisition, disposition, and intended end use of such fabrics, and any person manufacturing hats, gloves, or footwear containing such fabrics maintains records which show the acquisition, end use and disposition of such fabrics. Any person who fails to maintain such records or to furnish such invoice or other paper shall be deemed to have engaged in the marketing or handling of such products for purposes subject to the requirements of the act and such person and the products shall be subject to the provisions of sections 3, 6, 7, and 9 of the act.

(c) Except as provided in paragraph (d) of this section, handkerchiefs not exceeding a finished size of twenty-four (24) inches on any side or not exceeding five hundred seventy-six (576) square inches in area are not deemed "articles of wearing apparel" as that term is used in the act.

(d) Handkerchiefs or other articles affixed to, incorporated in, or sold as a part of articles of wearing apparel as decoration, trimming, or for any other purpose, are considered an integral part of such articles of wearing apparel, and the articles of wearing apparel and all parts thereof are subject to the provisions of the act. Handkerchiefs or other articles intended or sold to be affixed to, incorporated in or sold as a part of articles of wearing apparel as aforesaid constitute "fabric" as that term is defined in section 2(e) of the act and are subject to the provisions of the act which such handkerchiefs or other articles constitute textile fabrics as the term "textile fabric" is defined in § 1611.31(f).

(e) Where an article of wearing apparel has a raised-fiber surface which is intended for use as a covered or unexposed part of the article of wearing apparel but the article of wearing apparel is, because of its design and construction, capable of being worn with the raised-fiber surface exposed, such raised-fiber surface shall be considered to be an uncovered or exposed part of the article of wearing apparel. Examples of the type of products referred to in this paragraph are athletic shirts or so-called "sweat shirts" with a raised fiber inner side.

NOTE: An interpretation to § 302.6(c) issued by the Federal Trade Commission, 30 FR 16106, Dec. 28, 1965, provides as follows:

"§ 1611.36(c) does not exclude products from the act on the sole basis of the size, description or designation of such product.

"If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type or any other product of a finished type appears to be likely to be used as a covering for the head, neck, face, shoulders, or any part thereof, or otherwise appears likely to be used as an article of clothing, garment, or costume, such product is not a handkerchief and constitutes an article of wearing apparel as defined in and subject to the provisions of the Flammable Fabrics Act, irrespective of its size, or its description or designation as a handkerchief or any other term."

§ 1611.37 Reasonable and representative tests under section 8 of the act.

EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4(a) of the act show that the fabric covered by the guaranty, or used, or contained in the wearing apparel, is not, under the provisions of section 4 (a) of the act, so highly flammable as to be dangerous when worn by individuals.

While one establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, or the merchandise involved, would nevertheless, remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act, as well as the injunction and condemnation procedures under section 6 of the act.

The furnishing of guaranties is not mandatory under the act. The purpose of this rule is to establish minimum requirements for the reasonable and representative tests on which guaranties may be based.

(a) The following shall constitute reasonable and representative tests, as that term is used in section 8 of the act, for those textile fabrics which by reason of their composition, construction, finish type or weight may be tested upon a class basis. The word "class" as used in this section means a category of textile fabrics having certain general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized by the trade. In certain instances the use of class tests is restricted by this section to a particular textile fabric of the same fiber composition, construction and finish type. The results of such class tests may be used by any person as a basis for furnishing guaranties under section 8 of the act on all textile fabrics of the same class.

(1) *Plain surface textile fabrics weighing two ounces or more per square yard.* (i) One test of any plain surface textile fabric weighing two ounces or more per square yard, exclusive of metallic ornamentation, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(2) *Plain surface textile fabrics weighing less than two ounces per square yard.* (i) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric exhibits a burning time of 3.5 seconds or more, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than three months thereafter while in production. If, after four consecutive interval production tests have been made, none of such test results show the flame spread to have been less than 4.5 seconds, no further tests of such class of fabric need be made.

(ii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, none of the specimens ignite, such initial test may suffice for any fabric of the same fiber composition, construction and finish type.

(iii) When, on the initial test of any plain surface textile fabric weighing less than two ounces per square yard, such fabric ignites but the flame is extinguished before the stop cord is burned, such test may suffice for any fabric of the same fiber composition, construction and finish type. This class of fabric shall be tested at least once at intervals of not more than one year thereafter while in production.

(3) *Certain raised fiber surface textile fabrics.* (i) When a test of any raised fiber surface textile fabric which has a dense cut pile of uniform short length or looped yarns, does not exhibit a surface flash and does not ignite, such test shall suffice for any such fabric having a dense cut pile of the same length or the same looped yarns and of the same fiber composition, construction and finish type. Examples of the types of fabrics referred to are velvet, velveteens, velours, and corduroys.

(ii) One test of any raised fiber surface textile fabric, the raised fiber surface of which consists of not less than ninety percentum (90%) protein fiber, or one test of any fabric in a particular class of such fabrics, shall suffice for any such fabric or class of fabrics.

(iii) When, on the initial test of any raised surface textile fabric which has a surface composed of looped yarns, such fabric exhibits a burning time in excess of 12 seconds, such test may suffice for any such fabric having the same looped yarns and of the same fiber composition, construction and finish type. An example of the type of fabric referred to is "terry cloth".

(b)) Raised fiber surface textile fabrics: When, on the initial test of a raised fiber surface textile fabric, such fabric:

(1)(i) Falls within Class 2 as provided in § 1610.3(a)(2)(i), the fabric shall be tested at least once at intervals of not more than one month while in production, or if the production exceeds 50,000 yards per month, the fabric shall be tested thereafter every 50,000 yards or fraction thereof.

(ii) If, after two such intervals, production tests have been made, the test results do not show the flame spread to have been less than 4 seconds, with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than three months while in production, or if the production exceeds 100,000 yards per three months, the fab-

ric shall be tested thereafter every 100,000 yards or fraction thereof.

(2) Has a flame spread in excess of 7 seconds with the base fabric ignited or fused, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(3) Has a surface flash, but the base fabric does not ignite nor fuse, the fabric shall be tested at least once at intervals of not more than six months thereafter while in production.

(4) Does not have a surface flash and does not ignite, the initial test shall suffice.

(c) When, on initial test a film or a textile fabric with a nitro-cellulose fiber, finish or coating, does not exhibit a burning rate in excess of 1.2 inches per second, one test each year thereafter while in production shall be deemed reasonable and representative tests for such film or textile fabric.

(d) Reasonable and representative tests of fabrics and fabrics contained in articles of wearing apparel, subject to the act, produced prior to the effective date of the act, and which have not been tested under the applicable requirements of paragraphs (a), (b), or (c) of this section, shall be an initial test for each class of such fabrics, and such tests shall be applicable to all fabrics having the same fiber composition, construction and finish type.

(e) In the case of articles of wearing apparel which are not made from fabrics but directly from yarns, the fabrics contained in such articles of wearing apparel shall be tested by the testing requirements provided in paragraphs (a) and (b) of this section.

(f) Where fabrics or fabrics contained in articles of wearing apparel have not been tested when in production by the applicable testing requirements provided in paragraphs (a), (b) or (c) of this section, one test of each such fabrics shall be made every 10,000 yards or fraction thereof, or of the fabric contained in one of every 5,000 of such articles of wearing apparel or fraction thereof, and these shall be deemed reasonable and representative tests of such fabrics.

(g) In the case of textile fabrics or textile fabrics contained in articles of wearing apparel having an appliqued, overstitched, or embroidered type of design of a loop, pile, nap, or tufted construction, tests shall be conducted according to paragraph (b) of this section on each type of applique, overstitch, or embroidery.

(h) If tests of any textile fabric made subsequent to the initial test show a burning time of another category, then such fabric shall be tested thereafter under the testing requirements of such changed time.

(i) The application of this section, insofar as it relates to the testing of plain surface textile fabrics or such fabrics contained in articles of wearing apparel weighing two ounces or more per square yard, shall be limited to fabrics made of fibers in use or capable of being used as of May 31, 1954. Such fabrics weighing two ounces or more per square yard made in whole or in part of fibers developed and used subsequent to May 31, 1954, shall be tested in accordance with the testing requirements set out in paragraph (a)(2) of this section.

§ 1611.38 Maintenance of records by those furnishing guaranties.

(a) In order to properly administer and enforce section 8 of the act relating to guaranties, it is required that any person furnishing either a separate or continuing guaranty who has made the tests prescribed by the act and regulations shall keep and maintain records of such tests. The records to be maintained shall show:

(1) The style or range number, fiber composition, construction and finish type of each textile fabric and each textile fabric (including those with a nitrocellulose fiber, finish or coating) used or contained in an article of wearing apparel covered by the guaranty, including a swatch of the fabric tested.

(2) The stock or formula number, color, thickness and general description of each film or film used in an article of wearing apparel covered by the guaranty, including a sample of the film tested.

(3) The results of the actual tests made on the textile fabric and film or the fabric and film used or contained in an article of wearing apparel.

(b) Persons furnishing guaranties based upon class tests shall maintain records showing:

(1) Identification of the class test.

(2) Fiber composition, construction and finish type of the fabrics, or the fabrics used or contained in articles of wearing apparel so guaranteed.

(3) A swatch of each class of fabrics guaranteed.

(c) Persons furnishing guaranties based upon guaranties received by them shall maintain records showing:

(1) The guaranty received and identification of the fabrics or fabrics contained in articles of wearing apparel guaranteed in turn by them.

(d) The records referred to in this section shall be preserved for a period of three years from the date the tests were performed, or in the case of paragraph (c) of this section the guaranties were furnished.

(e) Any person furnishing a guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

§ 1611.39 Shipments under section 11 (c) of the act.

(a) The invoice or other paper relating to the shipment or delivery for shipment in commerce of articles of wearing apparel or textile fabrics for the purpose of finishing or processing to render them not so highly flammable as to be dangerous when worn by individuals, shall contain a statement disclosing such purpose.

(b) An article of wearing apparel or textile fabric shall not be deemed to fall within the provisions of section 11(c) of the act as being shipped or delivered for shipment in commerce for the purpose of finishing or processing to render such article of wearing apparel or textile fabric not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, unless the shipment or delivery for shipment in commerce of such article of wearing apparel or textile fabric is made direct to person engaged in the business of processing or finishing textile products for the prearranged purpose of having such article of apparel or textile fabric processed or finished to render it not so highly flammable under section 4 of the act, as to be dangerous when worn by individuals, and any person shipping or delivering for shipment the article of wearing apparel or fabric in commerce for such purpose maintains records which establish (1) that the textile fabric or article of wearing apparel has been shipped for appropriate flammability treatment, and (2) that such treatment has been completed, as well as records to show the disposition of such textile fabric or article of wearing apparel subsequent to the completion of such treatment.

(c) The importation of textile fabrics or articles of wearing apparel may be considered as incidental to a transaction involving shipment or delivery for shipment for the purpose of rendering such textile fabrics or articles of wearing apparel not so highly flammable under the provisions of section 4 of the act, as to be dangerous when worn by individuals, if:

(1) The importer maintains records which establish (i) that the imported textile fabrics or articles of wearing apparel have been shipped for appropriate flammability treatment, and (ii) that such treatment has been completed, as well as records to show the disposition of such textile fabrics or articles of wearing apparel subsequent to the completion of such treatment.

(2) The importer, at the time of importation, execute and furnishes to the Bureau of Customs an affidavit stating:

These fabrics (or articles of wearing apparel) are dangerously flammable under the provisions of section 4 of the Flammable Fabrics Act, and will not be sold or used in their present condition but will be processed or finished by the undersigned or by a duly authorized agent so as to render them not so highly flammable under the provisions of section 4 of the Flammable Fabrics Act, as to be dangerously flammable when worn by individuals. The importer agrees to maintain the records required by 16 CFR 1610.39 (c)(1).

(3) The importer, if requested to do so by the Bureau of Customs, furnishes an adequate specific-performance bond conditioned upon the complete discharge of the obligations assumed in subparagraph (1) and (2) of this paragraph.

NOTE: The purpose of section 11(c) is only to permit articles of wearing apparel or textile fabrics which are dangerously flammable to be shipped or delivered for shipment in commerce for the purpose of treatment or processing to render them not dangerously flammable. Section 11(c) does

not in any other respect limit the force and effect of sections 3, 6, 7, and 9 of the act. In particular, section 11(c) does not authorize the sale or offering for sale of any article of wearing apparel or textile fabric which is in fact dangerously flammable at the time of sale or offering for sale, even though the seller intends to ship the article for treatment prior to delivery to the purchaser or has already done so. Moreover, under section 3 of the act a person is liable for a subsequent sale or offering for sale if, despite the purported completion of treatment to render it not dangerously flammable, the article in fact remains dangerously flammable.

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Subpart A—The Standard

Sec.

1615.1 Definitions.
1615.2 Scope and application.
1615.3 General requirements.
1615.4 Test procedure.
1615.5 Labeling requirements.

Subpart B—Rules and Regulations

1615.31 Labeling, recordkeeping, advertising, retail display and guaranties.

Subpart C—Interpretations and Policies

1615.61 [Reserved]
1615.62 Policy and interpretation relative to items in inventory are as to recordkeeping requirements.
1615.63 Policy regarding garment production unit identification.

Subpart A—The Standard

AUTHORITY: Sec. 4, Sec. 67 stat. 112, as amended, 81 stat. 569–70; 15 U.S.C. 1193.

EFFECTIVE DATE: This standard became effective July 28, 1972. It was originally published as a notice on July 21, 1972 (37 FR 14624), and corrected on September 21, 1972 (31 FR 19662).

§ 1615.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under the act for setting standards (Part 1607 of this chapter) the following definitions apply for the purposes of this Standard:

(a) "Children's Sleepwear" means any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition.

(b) "Size 6X" means the size defined as 6X in Department of Commerce Voluntary Product Standard, previously identified as Commercial Standard, CS 151–50 "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers, and Children."[1]

(c) "Item" means any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear.

(d) "Trim" means decorative materials, such as ribbons, laces, embroidery, or ornaments. This definition does not include (1) individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover in aggregate a total of more than 20 square inches of the item, or (2) functional materials (findings), such as zippers, buttons, or elastic bands, used in the construction of garments.

(e) "Test Criteria" means the maximum char length and residual flame time which a sample or specimen may exhibit in order to pass an individual test.

(f) "Char Length" means the distance from the original lower edge of the specimen exposed to the flame in accordance with the procedure specified in § 1615.4 *Test procedure* to the end of the tear or void in the charred, burned, or damaged area, the tear being made in accordance with the procedure specified in § 1615.4(g)(2).

(g) "Residual Flame Time" is defined as the time from removal of the burner from the specimen to the final extinction of molten material or other fragments flaming on the base of the cabinet.

(h) "Afterglow" means the continuation of glowing of parts of a specimen after flaming has ceased.

(i) "Fabric Piece" (Piece) means a continuous, unseamed length of fabric, one or more of which make up a unit.

(j) "Fabric Production Unit" (Unit) means any quantity of finished fabric up to 5,000 linear yards for normal sampling or 10,000 linear yards for reduced sampling which has a specific identity that remains unchanged throughout the Unit except for color or print pattern as specified in § 1615.4(b). For purposes of this definition, finished fabric means fabric in its final form after completing its last processing steps as a fabric except for slitting.

(k) "Garment Production Unit" (Unit) means any quantity of finished garments up to 500 dozen which have a specific identity that remains unchanged throughout the Unit except for size, trim, findings, color, and print patterns as specified in § 1615.4(b).

(l) "Sample" means five test specimens.

(m) "Specimen" means an 8.9 x 25.4 cm. (3.5 x 10 in.) section of fabric. For garment testing the specimen will include a seam or trim.

§ 1615.2 Scope and application.

(a) This Standard provides a test method to determine the flammability of items as defined in § 1615.1(c).

(b) All items as defined in § 1615.1(c) are subject to requirements of this standard.

(c) The flammability standards for clothing textiles and vinyl plastic film, Parts 1610 and 1611 of this Chapter, are superseded by this Part 1615 insofar as they apply to items defined in § 1615.1(c).

§ 1615.3 General requirements.

(a) *Summary of Test Method.* Five conditioned specimens, 8.9 x 25.4 cm. (3.5 x 10 in.), are suspended one at a time vertically in holders in a prescribed cabinet and subjected to a standard flame along their bottom edge for a specified time under controlled conditions. The char length and residual flame time are measured.

(b) *Test Criteria.* The test criteria when the testing is done in accordance with § 1615.4 *Test procedure* are:

(1) *Average Char Length.* The average char length of five specimens shall not exceed 17.8 cm. (7.0 in.).

(2) *Full Specimen Burn.* No individual specimen shall have a char length of 25.4 cm. (10 in.).

(3) *Residual Flame Time.* No individual specimen shall have a residual flame time greater than 10 seconds.

§ 1615.4 Test procedure.

(a) *Apparatus*—(1) *Test Chamber.* The test chamber shall be a steel cabinet with inside dimensions of 32.9 cm. (12 15/16 in.) wide, 32.9 cm. (12 15/16 in.) deep, and 76.2 cm. (30 in.) high. It shall have a frame which permits the suspension of the specimen holder over the center of the base of the cabinet at such a height that the bottom of the specimen holder is 1.7 cm. (¾ in.) above the highest point of the barrel of the gas burner specified in paragraph (c) of this section and perpendicular to the front of the cabinet. The front of the cabinet shall be a close fitting door with a glass insert to permit observation of the entire test. The cabinet floor shall be covered with a piece of asbestos paper, whose length and width are approximately 2.5 cm. (1 in.) less than the cabinet floor dimensions and whose thickness is a nominal 0.3 cm. (⅛ in.). A piece of asbestos paper at least 15.2 x 15.2 cm. (6 x 6 in.) and of nominal thickness of 0.15 cm. (1/16 in.) or less shall be used to catch the drips or other fragments and this latter paper shall be changed after each specimen which drips has been tested. The cabinet to be used in this test method is illustrated in Figure 1 and detailed in Engineering Drawings, Nos. 1 to 7.

(2) *Specimen Holder.* The specimen holder is designed to permit suspension of the specimen in a fixed vertical position and to prevent curling of the specimen when the flame is applied. It shall consist of two U-shaped 0.20 cm. (14 ga. USS) thick steel plates, 42.2 cm. (16⅝ in.) long, and 8.9 cm. (3.5 in.) wide, with aligning pins. The openings in the plates shall be 35.6 cm. (14 in.) long and 5.1 cm. (2 in.) wide. The specimen shall be fixed between the plates, which shall be held together with side clamps. The holder to be used in this test method is illustrated in Figure 2 and detailed in Engineering Drawing No. 7.

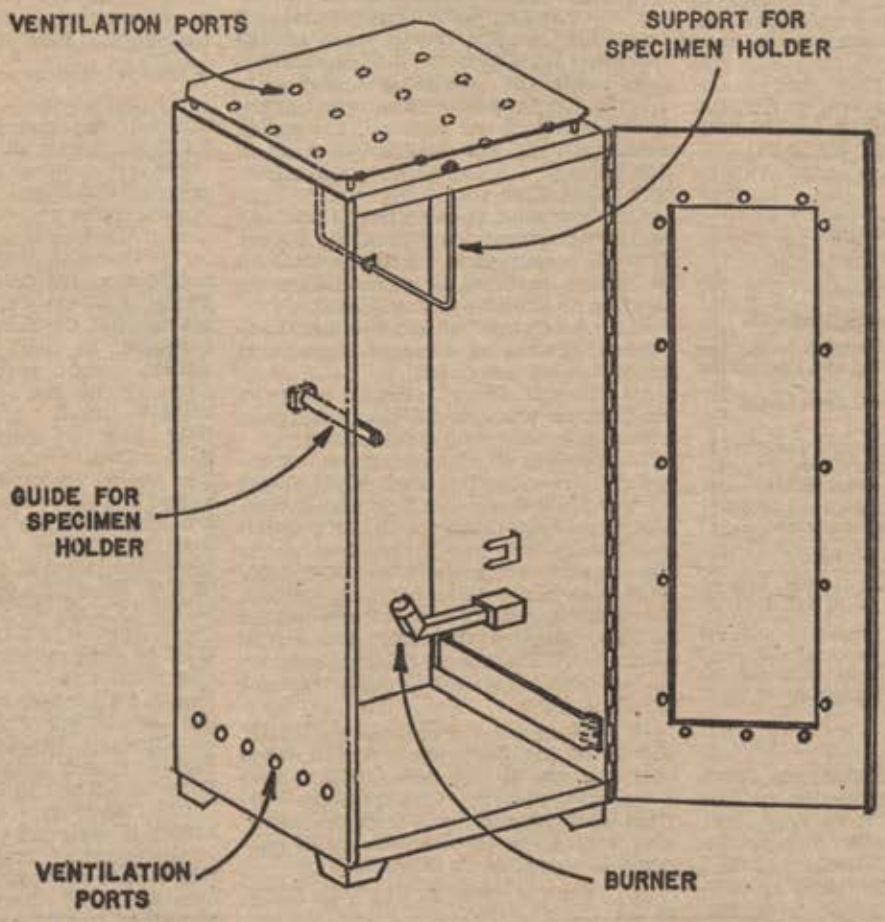
(3) *Burner.* The burner shall be substantially the same as that illustrated in Figure 1 and detailed in Engineering Drawing No. 6. It shall have a tube of 1.1 cm. (0.43 in.) inside diameter. The input line to the burner shall be equipped with a needle valve. It shall have a variable orifice to adjust the height of the flame. The barrel of the burner shall be at an angle of 25° from the vertical. The burner shall be equipped with an adjustable stop collar so that it may be positioned quickly under the test specimen. The burner shall be connected to the gas source by rubber or other flexible tubing.

[1] Copies available from the National Technical Information Service, 5285 Port Royal Street, Springfield, VA 22151.

(4) *Gas Supply System.* There shall be a pressure regulator to furnish gas to the burner under a pressure of 129±13 mm. Hg (2½±¼ lbs. per sq. in.) at the burner inlet.

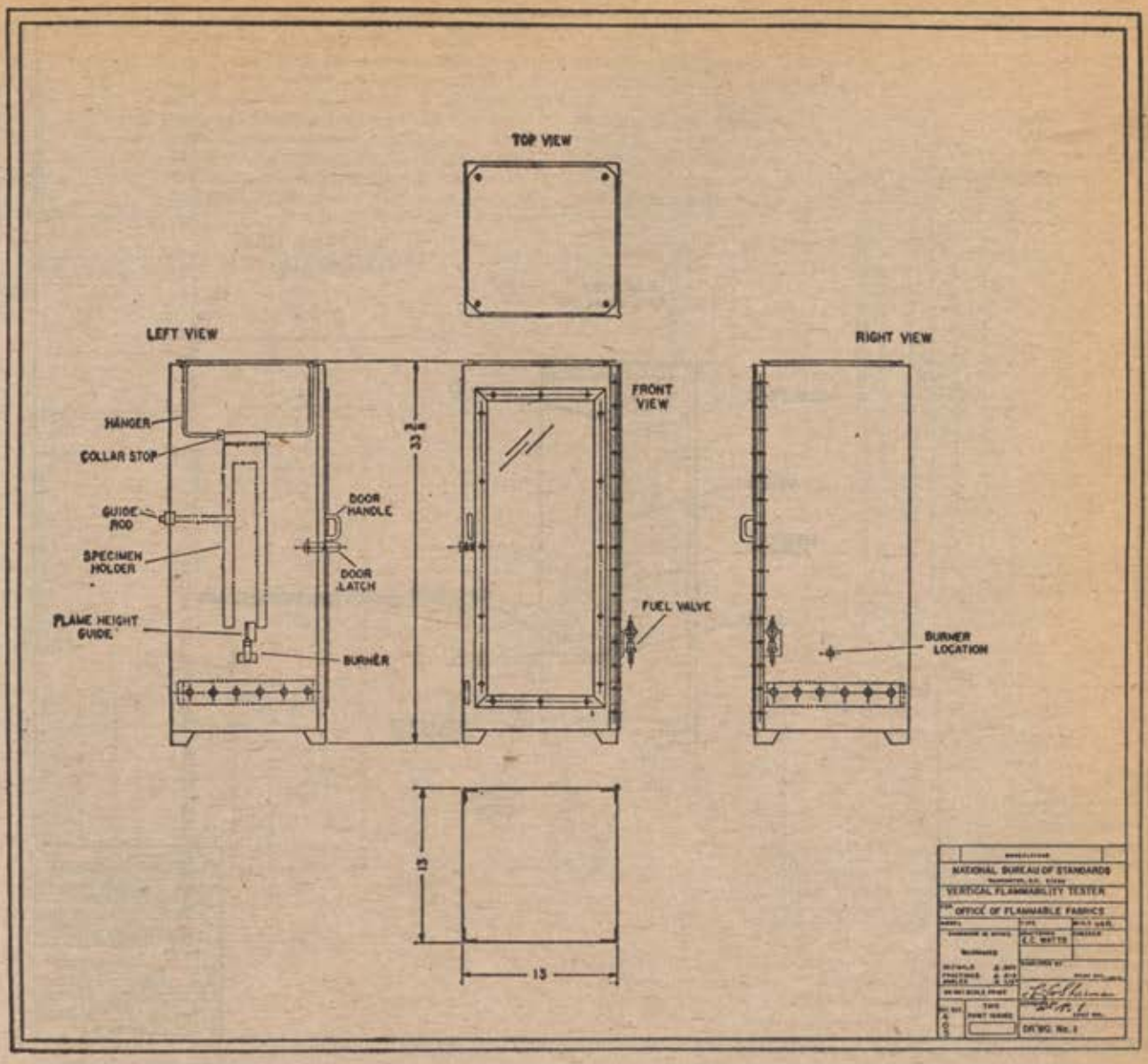
(5) *Gas.* The gas shall be at least 97 percent pure methane.

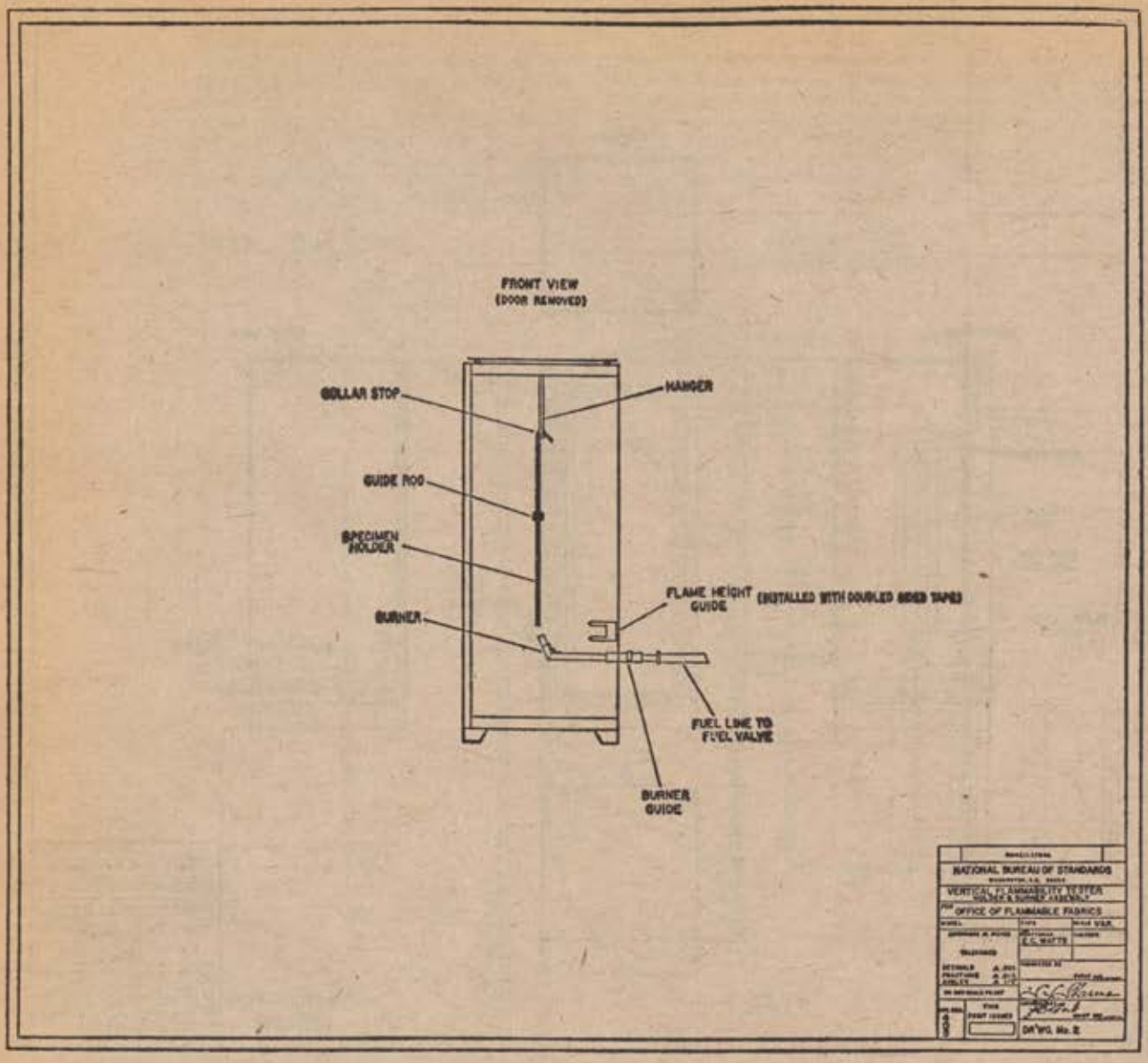
(6) *Hooks and Weights.* Metal hooks and weights shall be used to produce a series of loads for char length determinations. Suitable metal hooks consist of No. 19 gauge steel wire, or equivalent, made from 7.6 cm. (3 in.) lengths of the wire, bent 1.3 cm. (0.5 in.) from one end to a 45° angle hook. The longer end of the wire is fastened around the neck of the weight to be used and the other in the lower end of each burned specimen to one side of the burned area. The requisite loads are given in Table 1.

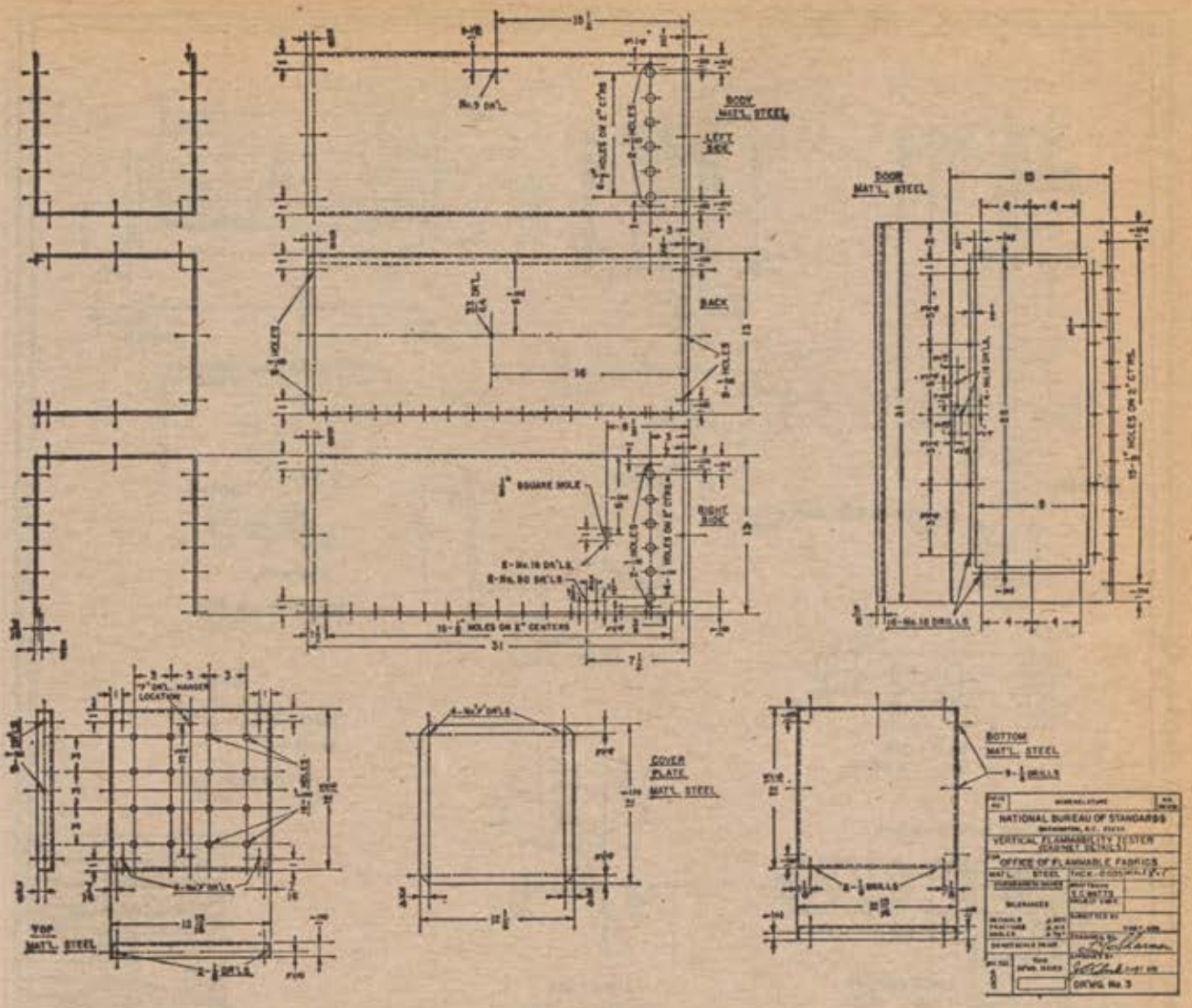


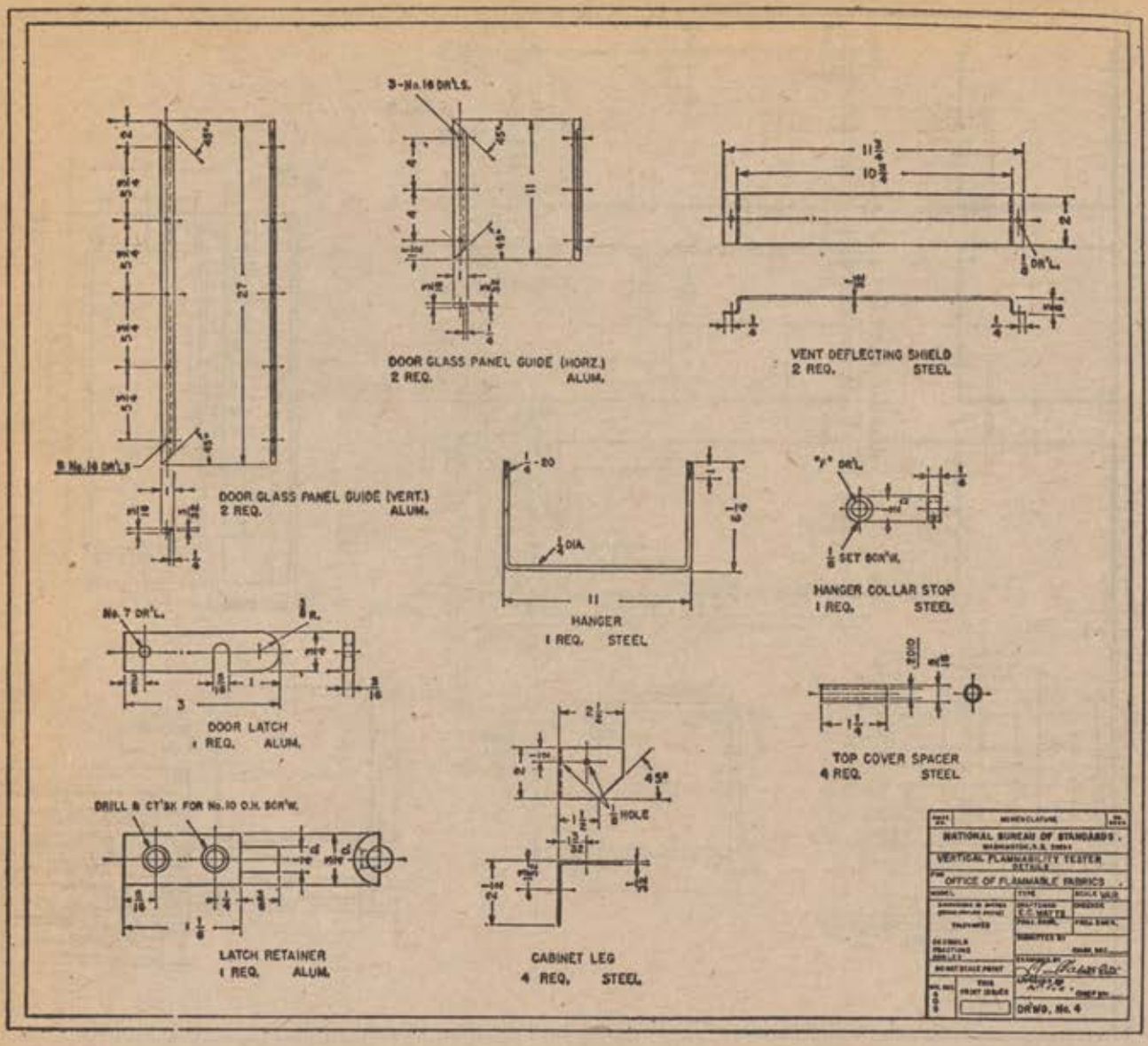
VERTICAL TEST CABINET

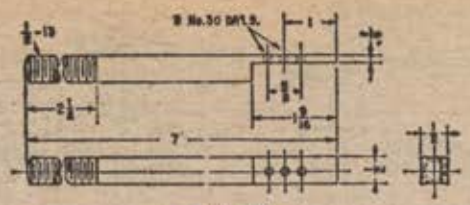
FIGURE I


TOP VIEW
LEFT VIEW
RIGHT VIEW
FRONT VIEW
HANGER
COLLAR STOP
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
DOOR HANDLE
DOOR LATCH
BURNER
FUEL VALVE
BURNER LOCATION
13
13
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS

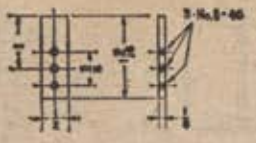

FRONT VIEW
(DOOR REMOVED)
COLLAR STOP
HANGER
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
BURNER
FUEL LINE TO FUEL VALVE
BURNER GUIDE
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
BURNER & BURNER ASSEMBLY
FOR OFFICE OF FLAMMABLE FABRICS
E.L. WATTS


BODY MAT'L. STEEL
LEFT SIDE
BACK
RIGHT SIDE
DOOR MAT'L. STEEL
COVER PLATE MAT'L. STEEL
BOTTOM MAT'L. STEEL
TOP MAT'L. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS

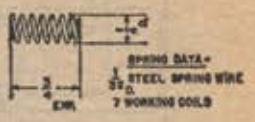

3-No.16 DR'LS.
DOOR GLASS PANEL GUIDE (HORZ.)
2 REQ. ALUM.
VENT DEFLECTING SHIELD
2 REQ. STEEL
DOOR GLASS PANEL GUIDE (VERT.)
2 REQ. ALUM.
HANGER
1 REQ. STEEL
HANGER COLLAR STOP
1 REQ. STEEL
No. 7 DR'L.
DOOR LATCH
1 REQ. ALUM.
TOP COVER SPACER
4 REQ. STEEL
DRILL & CT'BK FOR No.10 O.H. SCR'W.
LATCH RETAINER
1 REQ. ALUM.
CABINET LEG
4 REQ. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
DETAILS
OFFICE OF FLAMMABLE FABRICS
DRWG. No. 4



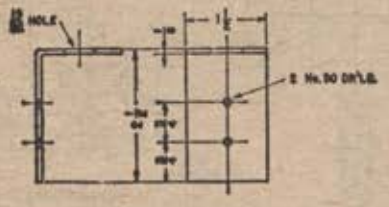
GUIDE ROD
1 REQ. ALUM.



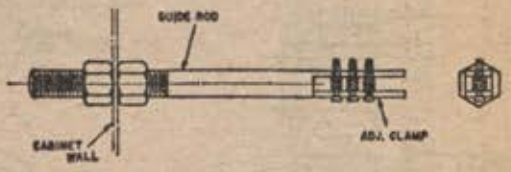
ADJUSTABLE CLAMP
1 REQ. ALUM.



SPRING (ADJ. CLAMP)
REQ. (SEE NOTE)

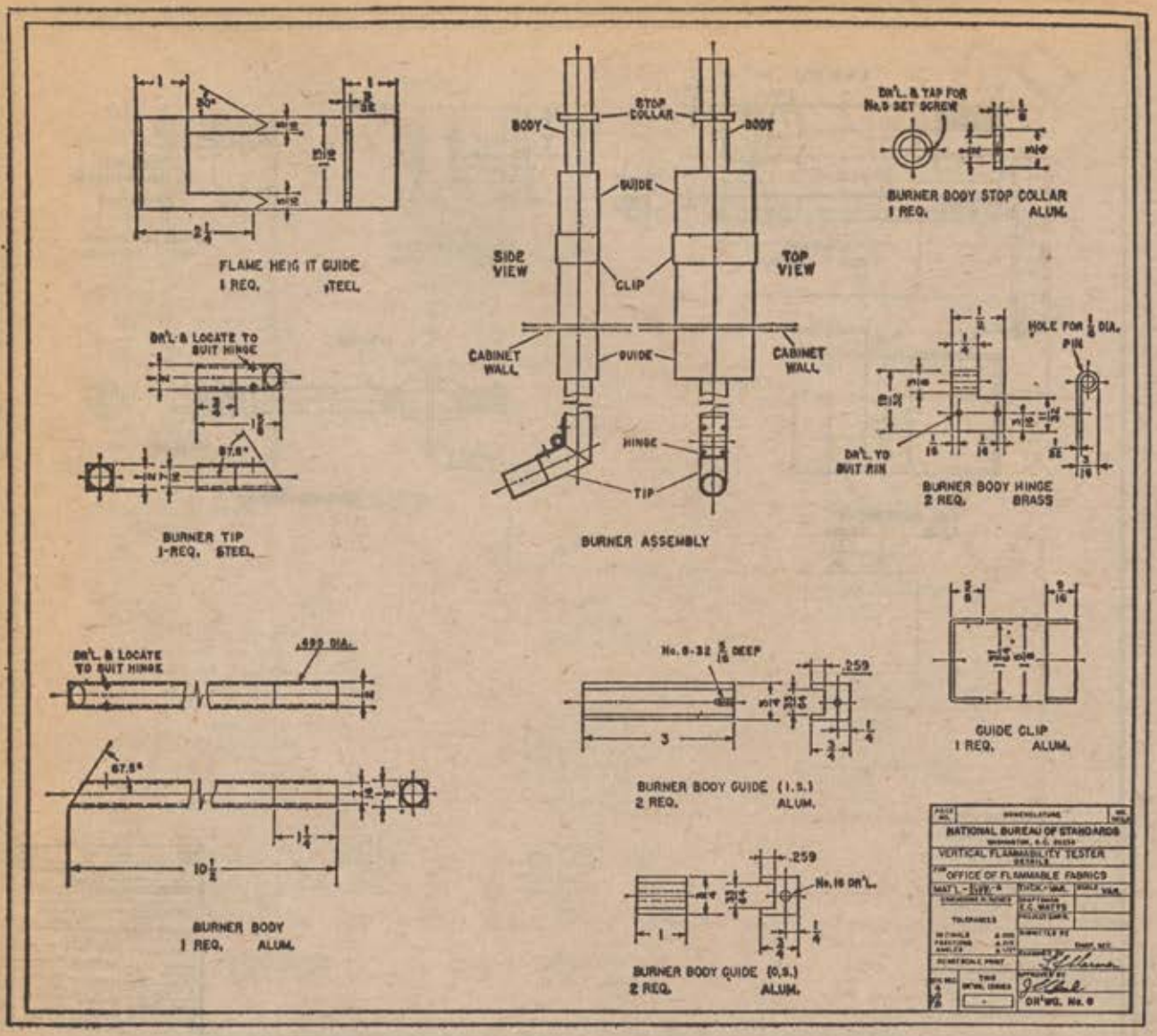


FUEL VALVE BRACKET
1 REQ. ALUM.



GUIDE ROD ASSEMBLY




FLAME HEIGHT GUIDE
1 REQ. STEEL
BODY
STOP COLLAR
BODY
GUIDE
SIDE VIEW
CLIP
TOP VIEW
CABINET WALL
GUIDE
CABINET WALL
HINGE
TIP
BURNER ASSEMBLY
DR'L. & TAP FOR No.8 SET SCREW
BURNER BODY STOP COLLAR
1 REQ. ALUM.
DR'L. & LOCATE TO SUIT HINGE
BURNER TIP
1 REQ. STEEL
HOLE FOR 1/8 DIA. PIN
DR'L. TO SUIT PIN
BURNER BODY HINGE
2 REQ. BRASS
.620 DIA.
DR'L. & LOCATE TO SUIT HINGE
67.5°
BURNER BODY
1 REQ. ALUM.
No. 8-32 3/16 DEEP
.259
BURNER BODY GUIDE (I.S.)
2 REQ. ALUM.
GUIDE CLIP
1 REQ. ALUM.
.259
No. 16 DR'L.
BURNER BODY GUIDE (O.S.)
2 REQ. ALUM.
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
DR'WG. No. 8

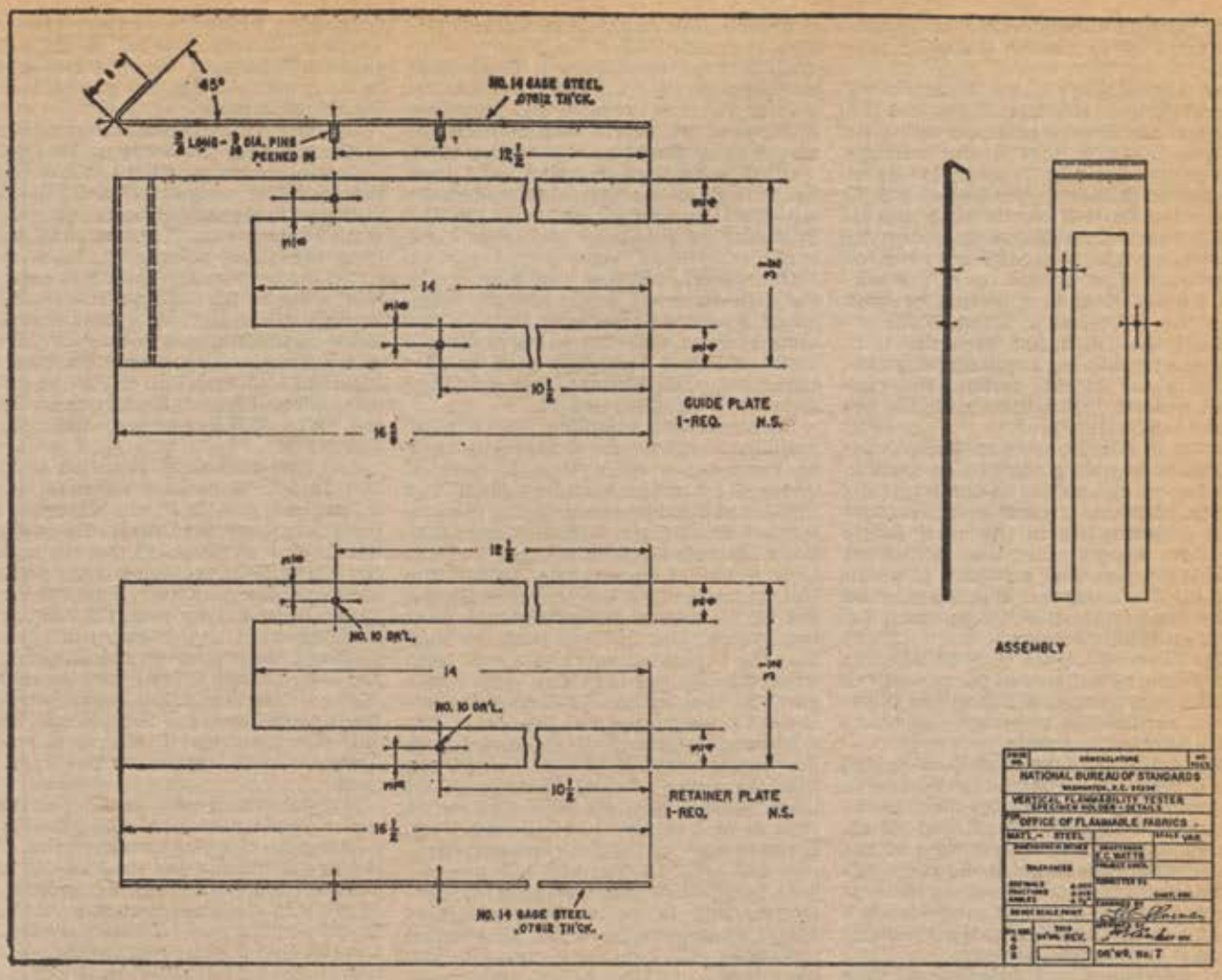


TABLE 1.—*Original fabric weight* [1]

Grams per square meter	Ounces per square yard	Loads	
		Grams	Pounds
Less than 101	Less than 3	54.4	0.12
101 to 207	3 to 6	113.4	.25
207 to 338	6 to 10	226.8	.50
Greater than 338	Greater than 10	340.2	.75

[1] Weight of the original fabric, containing no seams or trim, is calculated from the weight of a specimen which has been conditioned for at least 8 h at 21±1.1° C (70±2° F) and 65±2 pct relative humidity. Shorter conditioning times may be used if the change in weight of a specimen in successive weighings made at intervals of not less than 2 h does not exceed 0.2 pct of the weight of the specimen.

(7) *Stopwatch.* A stopwatch or similar timing device shall be used to measure time to 0.1 second.

(8) *Scale.* A linear scale graduated in millimeters or 0.1 inch divisions shall be used to measure char length.

(9) *Circulating Air Oven.* A forced circulation drying oven capable of maintaining the specimens at 105±2.8° C. (221±5° F.), shall be used to dry the specimen while mounted in the specimen holders.[2]

(10) *Desiccator.* An air-tight and moisture-tight desiccating chamber shall be used for cooling mounted specimens after drying. Anhydrous silica gel shall be used as the desiccant in the desiccating chamber.

(11) *Hood.* A hood or other suitable enclosure shall be used to provide a draft-free environment surrounding the test chamber. This enclosure shall have a fan or other suitable means for exhausting smoke and/or toxic gases produced by testing.

(b) *Specimens and sampling—General.* (1) The test criteria of § 1615.3(b) shall be used in conjunction with the following fabric and garment sampling plan, or any other approved by the Consumer Product Safety Commission that provides at least the equivalent level of fire safety to the consumer. Alternate sampling plans submitted for approval shall have operating characteristics such that the probability of Unit acceptance at any percentage defective does not exceed the corresponding probability of Unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability.

(2) Different colors or different print patterns of the same fabric may be included in a single Fabric or Garment Production Unit, provided such colors or print patterns demonstrate char lengths and residual flame times that are not significantly different from each other as determined by previous testing of at least three Samples from each color or print pattern to be included in the Unit.

(3) Garments with different trim and findings may be included in a single Garment Production Unit providing the

[2] Option 1 of ASTM, D2654–67T, "Method of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven (1970 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103).

other garment characteristics are identical except for size, color, and print pattern.

(4) For fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to fiber, yarns, or fabrics, the laundering requirement of paragraph (g)(4) of this section is met on subsequent Fabric Production Units if results of testing an initial Fabric Production Unit demonstrate acceptability according to the requirements of paragraph (c) of this section, Normal Sampling, both before and after the appropriate laundering.

(5) If the fabric has been shown to meet the laundering requirement, paragraph (g)(4) of this section, the garments produced from that fabric are not required to be laundered.

(6) Each Sample (five specimens) for all Fabric Sampling shall be selected so that two specimens are in one fabric direction (machine or cross-machine) and three spcimens are in the other fabric direction except for the additional Sample selected after a failure, in which case, all five specimens shall be selected in the same fabric direction in which the specimen failure occurred.

(7) Fabric Samples may be selected from fabric as outlined in paragraph (c) of this section entitled Fabric Sampling, or, for verification purposes, from randomly selected garments.

(8) Multilayer fabrics shall be tested with a hem of approximately 2.5 cm. (1 in.) sewn at the bottom edge of the specimen with a suitable thread and stitch. The specimen shall include each of the components over its entire length. Garments manufactured from multilayer fabrics shall be tested with the edge finish at the bottom edge of the specimen which is used in the garment.

(c) *Specimens and Sampling—Fabric Sampling.* A Fabric Production Unit (Unit) is either accepted or rejected in accordance with the following plan:

(1) *Normal Sampling.* Select one Sample from the beginning of the first Fabric Piece (Piece) in the Unit and one Sample from the end of the last Piece in the Unit, or select a sample from each end of the Piece if the Unit is made up of only one Piece. Test the two selected Samples. If both Samples meet all the Test Criteria of § 1615.3(b), accept the unit. If either or both of the Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If two or more of the individual specimens, from the 10 selected specimens fail the 25.4 cm. (10 in.) char length, .3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the Unit. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the Piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional Sample passes all the test criteria, accept the Unit. If this additional Sample fails any part of the test criteria, reject the Unit.

(2) *Reduced Sampling.* (i) The level of sampling required for fabric acceptance may be reduced provided the preceding 15 Units of the fabric have all been accepted using the Normal Sampling plan.

(ii) The Reduced Sampling plan shall be the same as for Normal Sampling except that the quantity of fabric in the Unit may be increased to 10,000 linear yards.

(iii) Select and test two Samples in the same manner as in Normal Sampling. Accept or reject the Unit on the same basis as with Normal Sampling.

(iv) Reduced Sampling shall be discontinued and Normal Sampling resumed if a Unit is rejected.

(3) *Tightened Sampling.* The level of sampling required for acceptance shall be increased when a Unit is rejected under the Normal Sampling plan. The Tightened Sampling shall be the same as Normal Sampling except that one additional Sample shall be selected and cut from a middle Piece in the Unit. If the Unit is made up of less than two Pieces, the Unit shall be divided into at least two Pieces. The division shall be such that the Pieces produced by the division shall not be smaller than 100 linear yards or greater than 2,500 linear yards. If the Unit is made up of two Pieces, the additional Sample shall be selected from the interior end of one of the Pieces. Test the three selected Samples. If all three selected Samples meet all the test criteria of § 1615.3(b), accept the Unit. If one or more of the three selected Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If two or more of the individual specimens from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the unit. If only one individual specimen, of the 15 selected Specimens fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the same Piece in which the failure occurred, all five to be taken in the fabric direction in which the Specimen failure occurred. If this additional Sample passes all the test criteria, accept the Unit. If this additional Sample fails any part of the test criteria, reject the Unit. Tightened Sampling may be discontinued and Normal Sampling resumed after five consecutive Units have all been accepted using Tightened Sampling. If Tightened Sampling remains in effect for 15 consecutive Units, production of the specific fabric in Tightened Sampling must be discontinued until that part of the process or component which is causing failure has been identified and the quality of the end product has been improved.

(4) *Disposition of Rejected Units.* (i) The Piece or Pieces which have failed and resulted in the initial rejection of the Unit may not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a) except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures in Tightened Sampling.

(ii) The remainder of a rejected Unit, after removing the Piece or Pieces the failure of which resulted in Unit rejection, may be accepted if the following test plan is successfully concluded at all required locations. The required locations are those adjacent to each such failed Piece. (Required locations exist on both sides of the "Middle Piece" tested in Tightened Sampling if failure of that Piece resulted in Unit rejection.) Failure of a Piece shall be deemed to have resulted in Unit rejection if Unit rejection occurred and a Sample or specimen from the Piece failed any test criterion of § 1615.3(b).

(iii) The Unit should contain at least 15 Pieces for disposition testing after removing the failing Pieces. If necessary for this purpose, the Unit shall be demarcated into at least 15 approximately equal length Pieces unless such division results in Pieces shorter than 100 linear yards. In this latter case, the Unit shall be demarcated into roughly equal length Pieces of approximately 100 linear yards each. If such a division results in five Pieces or less in the Unit for each failing Piece after removing the failing Pieces, only the individual Piece retest procedure (described subsequently) may be used.

(iv) Select and cut a Sample from each end of each adjoining Piece beginning adjacent to the Piece which failed. Test the two Samples from the Piece. If both Samples meet all the test criteria of § 1615.3(b), the Piece is acceptable. If one or both of the two selected Samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1615.3(b)(1), the Piece is unacceptable. If two or more of the individual Specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), the Piece is unacceptable. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select five additional specimens from the same end of the Piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional Sample passes all the test criteria, the Piece is acceptable. If this additional Sample fails any part of the test criteria, the Piece is unacceptable.

(v) Continue testing adjoining Pieces until a Piece has been found acceptable. Then continue testing adjoining Pieces until three successive adjoining Pieces, not including the first acceptable Piece, have been found acceptable or until five such Pieces not including the first acceptable Piece, have been tested, whichever occurs sooner. Unless three successive adjoining Pieces have been found acceptable among five such Pieces, testing shall be stopped and the entire Unit rejected without further testing. If three succes-

sive Pieces have been found acceptable among five such Pieces, accept the three successive acceptable Pieces and the remaining Pieces in the Unit.

(vi) Alternatively, individual Pieces from a rejected Unit containing three or more Pieces may be tested and accepted or rejected on a Piece-by-Piece basis according to the following plan, after removing the Piece or Pieces, the failure of which resulted in Unit rejection. Select four Samples (two from each end) from the Piece. Test the four selected Samples. If all four Samples meet all the Test Criteria of § 1615.3(b), accept the Piece. If one or more of the Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the Piece. If two or more of the individual Specimens, from the 20 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(1), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the Piece. If only one individual specimen, from the 20 selected specimens, fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), select two additional Samples from the same end of the Piece in which the failure occurred. If these additional two Samples meet all the Test Criteria of § 1615.3(b), accept the Piece. If one or both of the two additional Samples fail any part of the Test Criteria, reject the Piece.

(vii) The Pieces of a Unit rejected after retesting may not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a) except after reworking to improve the flammability characteristics, and subsequent retesting in accordance with the procedures set forth in Tightened Sampling.

(5) *Records.* Records of all Unit sizes, test results, and the disposition of rejected Pieces and Units must be maintained by the manufacturer upon the effective date of this Standard. Rules and regulations may be established by the Consumer Product Safety Commission.

(d) *Specimens and Sampling—Garment Sampling.* (1)(i). The garment sampling plan is made up of two parts: (1) Prototype Testing and (2) Production Testing. Prior to production, prototypes must be tested to assure that the design characteristics of the garments are acceptable. Garment Production Units (Units) are then accepted or rejected on an individual Unit basis.

(ii) Edge finishes such as hems and binding are excluded from testing except that when trim is used on an edge the trim must be subjected to prototype testing. Seams attaching findings are excluded from testing.

(2) *Prototype Testing.* Preproduction prototypes of a garment style or type shall be tested to assure that satisfactory garment specifications in terms of flammability are set up prior to production.

(i) *Seams.* Make three Samples (15 specimens) using the longest seam type and three Samples using each other seam type 10 inches or longer that is to be included in the garment. Prior to testing, assign each specimen to one of the three Samples. Test each set of three Samples and accept or reject each seam design in accordance with the following plan:

(A) If all three Samples meet all the test criteria of § 1615.3(b), accept the seam design. If one or more of the three Samples fail the 17.8 cm (7 in.) average char length criterion, § 1615.3(b)(1), reject the seam design. If three or more of the individual Specimens from the 15 selected specimens fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the seam design. If only one of the individual specimens from the 15 selected specimens fails the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the seam design.

(B) If two of the individual specimens from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criteria, §1615.3(b)(3), select three more Samples (15 specimens) and retest. If all three additional Samples meet all the test criteria of § 1615.3(b) accept the seam design. If one or more of the three additional Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the seam design. If two or more of the individual specimens, from the 15 selected specimens, fail the (2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), reject the seam design. If only one of the individual specimens from the 15 selected specimens, fails the 25.4 cm. (10 in.) char length § 1615.3(b)(2), and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the seam design.

(ii) *Trim.* (A) Make three Samples (15 specimens) from each type of trim to be included in the garment. Specimens shall be prepared by sewing or attaching the trim to the center of the vertical axis of an appropriate section of untrimmed fabric, beginning the sewing or attachment at the lower edge of each specimen. The sewing or attachment shall be made in the manner in which the trim is to be attached in the garment.

(B) Sewing or otherwise attaching the trim shall be done with thread or fastening material of the same composition and size to be used for this purpose in the garment and using the same stitching or seam type. The trim shall be sewn or fastened the entire length of the specimen. Prior to testing, assign each specimen to one of the three Samples. Test the sets of three Samples and accept or reject the type of trim and design on the same basis as seam design.

(3) *Production Testing.* A Unit is either accepted or rejected according to the following plan:

(i) (A) From each Unit select at random sufficient garments and cut three Samples (15 specimens) from the longest seam type. No more than five specimens may be cut from a single garment. Prior to testing, assign each specimen to one of the three Samples. All specimens cut from a single garment must be included in the same Sample. Test the three selected Samples. If all three Samples meet all the test criteria of § 1615.3(b), accept the Unit. If one or more of the three Samples fail the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), reject the Unit. If four or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2), and/or the 10 second residual flame time criterion, §1615.3(b)(3), reject the Unit. If three or less of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length, § 1615.3(b)(2) and/or the 10 second residual flame time criteria, § 1615.3(b)(3), accept the Unit.

(B) (*1*) If the garment under test does not have a 10-inch seam in the largest size in which it is produced, the following selection and testing procedure shall be followed.

(2) Select and cut specimens 8.9 cm. (3.5 in.) wide by the maximum available seam length, with the seam in the center of the specimen and extending the entire specimen length. Cut three Samples (15 specimens). These specimens shall be placed in specimen holders so that the bottom edge is even with the bottom of the specimen holder and the seam begins in the center of the bottom edge. Prior to testing, assign each specimen to one of the three Samples. All specimens cut from a single garment must be included in the same Sample.

(3) Test the three Samples. If all three Samples pass the 17.8 cm. (7 in.) average char length criterion, § 1615.3(b)(1), and if three or less individual specimens fail by charring the entire specimen length and/or exceeding the 10 second residual flame time criterion, § 1615.3(b)(3), accept the Unit. If the Unit is not accepted in the above test, three Samples (15 specimens) of the longest seam type shall be made using fabric and thread from production inventory and sewn on production machines by production operators. The individual fabric sections prior to sewing must be no larger than 20.3 x 63.3 cm. (8 in. x 25 in.) and must be selected from more than one area of the base fabric. Test the three prepared Samples. Accept or reject the Unit as described previously in this subsection.

(*4*) *Disposition of Rejected Units.* Rejected Units shall not be retested, used, or promoted for use in children's sleepwear as defined in § 1615.1(a), except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures set forth in garment production testing.

(*5*) *Records.* Records of all Unit sizes, test results, and the disposition of rejected Units must be maintained by the manufacturer upon the effective date of this standard. Rules and regulations may be established by the Consumer Product Safety Commission.

(e) *Specimens and Sampling—Compliance Market Sampling Plan.* Sampling plans for use in market testing of items covered by this Standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production Unit to exist only when it is shown, with a high level

of statistical confidence, those production Units represented by tested items which fail such plans will, in fact, fail this standard. Production units found to be non-complying under the provisions of paragraph (e) of this section shall be deemed not to conform to this Standard. The Consumer Product Safety Commission may publish such plans in the FEDERAL REGISTER.

(f) *Mounting and conditioning of specimens.* (1) The specimens shall be placed in specimen holders so that the bottom edge of each specimen is even with the bottom of the specimen holder. Mount the specimen in as close to a flat configuration as possible. The sides of the specimen holder shall cover 1.9 cm. (¾ in.) of the specimen width along each long edge of the specimen, and thus shall expose 5.1 cm. (2 in.) of the specimen width. The sides of the specimen holder shall be clamped with a sufficient number of clamps or shall be taped to prevent the specimen from being displaced during handling and testing. The specimens may be taped in the holders if the clamps fail to hold them. Place the mounted specimens in the drying oven in a manner that will permit free circulation of air at 105° C. (221° F.) around them for 30 minutes.[3]

(2) Remove the mounted specimens from the oven and place them in the desiccator for 30 minutes to cool. No more than five specimens shall be placed in a desiccator at one time. Specimens shall remain in the desiccator no more than 60 minutes.

(g) *Testing*—(1) *Burner adjustment.* With the hood fan turned off, use the needle valve to adjust the flame height of the burner to 3.8 cm. (1½ in.) above the highest point of the barrel of the burner. A suitable height indicator is shown in Engineering Drawing No. 6 and Figure 1.

(2) Specimen Burning and Evaluation. (i) One at a time, the mounted specimens shall be removed from the desiccator and suspended in the cabinet for testing. The cabinet door shall be closed and the burner flame impinged on the bottom edge of the specimen for 3.0±0.2 seconds.[4] Flame impingement is accomplished by moving the burner under the specimen for this length of time, and then removing it. If flaming drips or fragments are evident, measure the residual flame time to the nearest 0.1 second.

(ii) When afterglow has ceased, remove the specimen from the cabinet and holder, and place it on a clean flat surface. Fold the specimen lengthwise along a line through the highest peak of the charred or melted area; crease the specimen firmly by hand. Unfold the specimen and insert the hook with the correct weight as shown in Table 1 in the specimen on one side of the charred area 6.4 mm. (¼ in.) from the lower edge.

(iii) Tear the specimen by grasping the other lower corner of the fabric and gently raising the specimen and weight clear of the supporting surface.[5] Measure the char length as the distance from the end of the tear to the edge of the specimen exposed to the flame. After testing each specimen, vent the hood and cabinet to remove the smoke and/or toxic gases.

(3) *Report.* Report the value of char length, in centimeters (inches), and the residual flame time, in seconds, for each specimen, as well as the average char length for each set of five specimens.

(4) *Laundering.* (i) The procedures described under paragraphs (b) through (g) of this section shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to AATCC Test Method 124–1969.[6] Items which do not withstand 50 launderings shall be tested at the end of their useful service life.

(ii) Washing procedure 6.2(III), with a water temparture of 60°±2.8° C. (140 ±5° F.), and drying procedure 6.3.2(B), shall be used. Maximum load shall be 3.64 Kg. (8 pounds) and may consist of any combination of test samples and dummy pieces. Alternatively, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission. Such laundering is not required of items which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(iii) Items which are not susceptible to being laundered and are labeled "dry-clean only" shall be drycleaned by a procedure which has previously been found to be acceptable by the Consumer Product Safety Commission.

(iv) For the purpose of the issuance of a guarantee under section 8 of the act, finished sleepwear garments to be tested according to paragraphs (b) through (e) of this section need not be laundered or drycleaned provided all fabrics used in making the garments (except trim) have been guaranteed by the fabric producer to be acceptable when tested according to paragraphs (b) through (e) of this section.

[3] If the specimens are moist when received, permit them to air dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing." ("1970 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.)

[4] If more than 15 seconds elapse between removal of a specimen from the desiccator and the initial flame impingement, that specimen shall be reconditioned prior to testing.

[5] A figure showing how this is done is given in AATCC 34–1969, Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

[6] Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

§ 1615.5 Labeling requirements.

(a) *Care labels.* All items of children's sleepwear shall be labeled with precautionary instructions to protect the items from agents or treatments which are known to cause deterioration of their flame resistance. If the item has been initially tested under § 1615.4(g)(4) after one washing and drying, it shall be labeled with instructions to wash before wearing. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

(b) *Temporary Requirement for Noncomplying Items.* Items of noncomplying children's sleepwear which are manufactured during the 12 months following the effective date of the standard shall, prior to introduction into commerce, be prominently, permanently, and conspicuously labeled with the following statement: "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3–71.) Should not be worn near sources of fire." Such labels should be in accordance with the rules and regulations established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112–113, as amended, 81 Stat. 570, 15 U.S.C. 1194, unless otherwise noted.

§ 1615.31 Labeling, recordkeeping, advertising, retail display and guaranties.

(a) *Definitions.* For the purposes of this section, the following definitions apply:

(1) "Standard" means the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of this Part) promulgated by the Secretary of Commerce in the FEDERAL REGISTER of July 29, 1971 (36 FR 14062), and amended by him in the FEDERAL REGISTER of July 21, 1972 (37 FR 14624).

(2) "Children's sleepwear" means "children's sleepwear" as defined in § 1615.1(a) of the Standard; that is, "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition."

(3) "Item" means "item" as defined in § 1615.1(c) of the Standard; that is, "any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear."

(4) "Marketing or handling" or "marketed or handled" means any one or more of the transactions set forth in section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(5) The definitions of terms set forth in § 1615.1 of the Standard shall also apply to this section.

(b) *Labeling.* (1) where any agent or treatment is known to cause deterioration of flame resistance or otherwise en-

hances the flammability characteristics of an item, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment.

(2) If the item has been initially tested under § 1615.4(g)(4) of the Standard after one washing and drying, it shall be prominently, permanently, conspicuously, and legibly labeled with instructions to wash before wearing.

(3) Any item manufactured, imported, or otherwise marketed or handled that is not in compliance with the Standard and that was manufactured between July 29, 1972, and July 29, 1973, shall, prior to introduction into commerce, be prominently, permanently, conspicuously, and legibly labeled with the statement "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3–71). Should not be worn near sources of fire."

(4) Where any fabric or related material intended or promoted for use in children's sleepwear is sold or intended for sale to the ultimate consumer for the purpose of conversion into children's sleepwear, each bolt, roll, or other unit shall be labeled with the information required by this section. Each item of fabric or related material sold to an ultimate consumer must be accompanied by a label, as prescribed by this section, that can by normal household methods be permanently affixed by the ultimate consumer to any item of children's sleepwear made from such fabric or related material.

(5) Where items required to be labeled in accordance with paragraphs (b)(2), (3), and (4) of this section are marketed at retail in packages, and the required label is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

(6) Samples, swatches, or specimens used to promote or effect the sale of items subject to the Standard shall be labeled in accordance with this section with the information required by this section, except that such information may appear on accompanying promotional materials attached to fabric samples, swatches, or specimens used to promote the sale of fabrics to garment manufacturers. This paragraph (b)(6) of this section shall not apply, however, to samples, swatches, or specimens prominently, permanently, conspicuously, truthfully, and legibly labeled with the statement "Flammable. Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear, DOC FF 3–71."

(7) The information required on labels by this section shall be set forth separately from any other information appearing on the same label. Other information, representations, or disclosures not required by this action but placed on the same label with information required by this section, or placed on other labels elsewhere on the item, shall not interfere with the information required by this section. No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(8) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign to each item a unit identification (number, letter or date, or combination, thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit identification under the Standard. The letters "GPU" and "FPU" may be used to designate a garment production unit identification and fabric production unit identification respectively, at the option of the labeler.

(i) Where fabrics required to be labeled or stamped in accordance with this section are marketed at retail in packages and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(8) of this section are marketed at retail in packages and the required label or stamp is not readily visible to the prospective purchasers:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by this section; or

(B) There must be a garment style identification that is prominent, conspicuous, and legible and readily visible to the prospective purchaser, either on a label or hang tag attached to the garments or on the garment packages. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or put of one or more GPU's and the style may include any number of garments the manufacturer chooses. Style identification means any numbers, letters, or combination thereof that are sufficient to identify the garments of the style and may include information such as color, season or size. If this option B is selected, in any recall of noncomplying items from a particular GPU:

(1) the garment manufacturer must recall the entire style(s) from all customers who purchased garments of the style(s) of which the GPU is part. However, retailers may elect to return only garments from the particular GPU necessitating the recall rather than the entire style(s) being recalled; and

(2) within 48 hours of a written request, the garment manufacturer must supply to the Commission any samples in its possession of garments from the GPU, as requested. As required of all persons subject to this section, the garment manufacturer must also, within the time requested, supply to the Commission the names of any customers who purchased during a specified period of time, garments from the GPU (or the style(s) of which the GPU is a part) and supply access to all records required under the Standard and this section.

(iii) Each garment subject to the Standard shall bear a label with minimum dimensions of 1.3 centimeters (0.5 inch) by 1.9 centimeters (0.75 inch) containing the appropriate garment production unit identification for that garment in letters which are clear, conspicuous, and legible and in a color which contrasts with the background of the label, or shall have such information stamped on the garment itself in letters which are clear, conspicuous, and legible and in a color which contrasts with the background, and at least 2.54 centimeters (1 inch) in every direction from any other information. The stamp or label containing the garment production unit identification must be of such construction, and affixed to the garment in such a manner as to remain on or attached to the garment and legible and visible throughout its intended period of use.

(iv) The fabric production unit identification shall appear in letters at least 0.4 centimeters (one-sixth of an inch) in height against a contrasting background on each label that relates to such fabric and is required by the Textile Fiber Products Identification Act (15 U.S.C. 70–70k) and the regulations thereunder (16 CFR 303.1 through 303.45), or by the Wool Products Labeling Act of 1939 (15 U.S.C. 68–68j) and the regulations thereunder (16 CFR 300.1 through 300.35). When the information required by the Textile Fiber Product Identification Act or by the Wool Products Labeling Act of 1939 appears on an invoice used in lieu of labeling, the fabric production unit identification required by this section may be placed clearly, conspicuously, and legibly on the same invoice in lieu of labeling.

(c) *Advertisements.* (1) All advertisements for noncomplying items of children's sleepwear manufactured between July 29, 1972 (the effective date of the Standard), and July 29, 1973, that are subject to the Standard and that are being offered for sale to consumers through direct mail, catalogs, telephone solicitation, or under any other circumstances where the consumer in the ordinary course of dealing is not afforded an opportunity to inspect the label before receiving the item, shall contain a clear and conspicuous disclosure of the statement "Flammable (Does Not Meet Standard for the Flammability of Children's Sleepwear, DOC FF 3–71). Should not be worn near sources of fire."

(2) All other advertisements for noncomplying items subject to the Standard shall contain a clear and conspicuous disclosure of the statement "Flammable—Read the Label."

(d) *Segregation of complying and noncomplying items by retailer.* Every person who sells noncomplying items (as defined in § 1615.1(c) of the Standard and paragraph (b)(3) of this section at retail stores or other establishments open to the general public where goods are offered for sale shall:

(1) Display the items which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and identify such complying items with at least one sign, with black letters at least 2.5 centimeters (one inch) in height against a solid white background, bearing the statement: "Flame Resistant. Complies With Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(2) Display all other items of children's sleepwear, sizes 0 through 6X, at a separate location within the store and identify these items with at least one sign, with black letters at least 2.5 centimeters (1 inch) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (DOC FF 3-71)."

(3) Segregate those items of children's sleepwear, sizes 0 through 6X, which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that they shall not be located within 91 centimeters (36 inches) of any other items of children's sleepwear, size 0 through 6X, when displayed for sale to consumers.

(e) *Records—manufacturers, importers, or other persons initially introducing items into commerce*—(1) *General.* Every manufacturer, importer, or other person (such as a converter) initially introducing into commerce items subject to the Standard, irrespective of whether guaranties are issued under paragraph (f) of this section, shall maintain written and physical records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear, or fabrics or related materials intended or promoted for use in children's sleepwear, to the sale and delivery of the finished items and from the specific finished item to the manufacturing records. Such records shall show with respect to such items:

(i) Details, description, and identification of any and all sampling plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan(s) and must relate the sampling plan(s) to the actual items produced, marketed, or handled. This requirement is not limited by other provisions of paragraph (e) of this section.

(ii) Garment production units or fabric production units of all garments or fabrics marketed or handled. The records must relate to an appropriate production unit identification on or affixed to the item itself in accordance with paragraph (b) (8) of this section, and the production unit identification must relate to the garment production unit or fabric production unit.

(iii) Test results and details of all tests performed, both prototype and production, including char lengths and residual flame time of each specimen tested, average char length of the samples required to be tested, details of the sampling procedure employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstate compliance with the test procedures and sampling plan specified by the Standard or authorized alternate sampling plan.

(iv) Disposition of all failing or rejected items. Such records must demonstrate that the items were retested or reworked and retested in accordance with the Standard prior to sale or distribution and that such retested or reworked and retested items comply with the Standard, or otherwise show the disposition of such items.

(v) Fiber content and manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Data and test results relied on as a basis for inclusion of different colors or different print patterns of the same fabric as a single fabric or garment production unit under § 1615.4(b) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under § 1615.4(g) (4) of the Standard and any guaranties issued or received relating to laundering as well as details of the laundering procedure utilized.

(viii) Identification, composition, and details of application of any flame retardant treatments employed. All prototype and production records shall relate to such information.

(ix) Date and quantity of each sale or delivery of items subject to the Standard (except the date of sale to an ultimate consumer) and the name and address of the purchaser or recipient (except an ultimate consumer). The items involved in each such sale or delivery shall be identified by production unit or by style. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more garment production units and the style may include any number of garments that form all or part of one or more garment production units and the style may include any number of garments the manufacturer chooses. If a person subject to the requirements of § 1615.31(e) maintains sales records which identify the items sold or delivered by style, and if recall of one or more production units subject to the Standard is required, that person in recalling such production units shall notify all purchasers of items of the style in which such production unit or units were manufactured. Retailers may elect to return all items of the style involved, or all items of the production unit or units subject to recall.

(2) *Fabrics.* In addition to the information specified in paragraph (e) (1) of this section the written and physical records maintained with respect to each fabric production unit shall include (i) finished fabric samples sufficient to repeat the fabric sampling procedure required by § 1615.4 (b) through (e) of the Standard for each production unit marketed or handled; and (ii) records to relate the samples to the actual fabric production unit. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the sampling and testing of any production unit in accordance with § 1615.4 (b) through (e) of the Standard shall be furnished from these records within the time specified in that written request.

(3) *Garments—prototype testing.* In addition to the records specified in paragraph (e) (1) of this section, the following written and physical records shall be maintained with respect to the garment prototype testing required by the Standard:

(i) Specification, fiber content, and details of construction on all seams, fabrics, threads, stitches, and trims used in each garment style or type upon which prototype testing was performed, relating the same to such garment style or type and to all production units to which such prototype testing is applicable.

(ii) Samples sufficient to repeat the prototype tests required by § 1615.4 (b) through (e) of the Standard for all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such samples to the records required by paragraph (e) of this section including the information required by paragraph (e) (3) (i) of this section. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the testing of any prototype specimens identical to those specimens that were actually tested pursuant to the Standard shall be furnished from these records within the time specified in that written request.

(iii) A complete untested garment from each style or type of garment marketed or handled.

(iv) Remains of all physical specimens tested in accordance with the prototype testing required by § 1615.4 (b) through (e) of the Standard, relating such samples to the records required by paragraph (c) of this section including information required by paragraph (e) (3) (i) of this section.

(4) *Garments—production testing.* In addition to the records required by paragraph (e) (1) of this section, written and physical records shall be maintained and shall show with respect to each garment production unit:

(i) Source and fabric production unit identification of all fabrics subject to testing used in each garment production unit.

(ii) Identification and appropriate reference to all prototype records and prototype tests applicable to each production unit.

(iii) Any guaranty relied upon to demonstrate that the fabric utilized in such garments meets the laundering requirements of the Standard.

(iv) Data sufficient to show that tested samples were selected from the production unit at random from regular production.

(v) Written data that will enable the Commission to obtain and test garments under any applicable compliance market sampling plan.

(5) *Record retention requirements.* The records required by paragraph (e) of this section shall be maintained for 3 years, except that records relating to prototype testing shall be maintained for as long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(f) *Tests for guaranty purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard.

(g) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

Subpart C—Interpretations and Policies

AUTHORITY: Secs. 1–17, 67 Stat. H1–15, as amended, 81 Stat. 568–74; 15 U.S.C. 1191–1204.

§ 1615.62 Policy and interpretation relative to items in inventory or as to recordkeeping requirements.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of this Part) was published in the FEDERAL REGISTER on July 29, 1971, at 36 FR 14062 et seq., and amended in the FEDERAL REGISTER of July 21, 1972 (37 FR 14624). The Notice of Standard provided at 36 FR 14063 that "Items in inventory or with the trade on the effective date of the Standard are exempt. All concerned parties shall be required to maintain records that these items offered for sale after the effective date of the Standard are eligible for the exemption."

(b) The Children's Sleepwear Standard was amended on July 21, 1972, at 37 FR 14624 et seq. to incorporate a sleepwear sampling plan therein and to make certain nonsubstantive technical corrections as to the test equipment. The effective date remained the same. In issuance of such amendment the Notice of Amendment specified at 37 FR 14625 that "It is emphasized that the only substantive change made to the standard involves the amendment necessary to include the sampling plan."

(c) The Notice of Amendment did not repeat the language in the original 1971 Notice of Standard relative to items in inventory or as to recordkeeping requirements.

(d) Questions have arisen under this standard as to the application of the standard to goods manufactured outside the United States prior to the effective date of the standard on July 29, 1972, as to whether a person claiming the exemption specified in the standard must maintain records showing eligibility for exemption from the standard.

(e) In the Commission's view, the provisions of the July 29, 1971, Notice of Standard as to exemption of items of children's sleepwear in inventory or with the trade on the effective date of the standard and as to the necessity of maintenance of records to show eligibility for such exemption are in full force and effect.

NOTE: This policy was published by the Federal Trade Commission on January 31, 1973 (38 FR 3014). It continues in effect.

§ 1615.63 Policy regarding garment production unit identification.

No provision of § 1615.31(b)(8) prohibits placement of a garment production unit identification on a label containing other information. Provided, however, that when the garment production unit identification appears on a label containing other information, provisions of § 1615.31(b)(7) require that the garment production unit identification must be set forth separately from any other information appearing on the same label, and that information not required by the applicable enforcement regulation § 1615.31, but placed on the same label with the garment production unit identification, shall not interfere with the garment production unit identification.

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74)

Subpart A—The Standard

Sec.

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Subpart A—The Standard

AUTHORITY: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

EFFECTIVE DATE: This standard became effective May 1, 1975. It was originally published as a notice on May 1, 1974 (39 FR 15210), amended March 21, 1975 (40 FR 12838), and corrected March 27, 1975 (40 FR 13547).

§ 1616.1 Scope and application.

(a) This Standard provides a test method to determine the flammability of children's sleepwear, sizes 7 through 14 and fabric or related material intended or promoted for use in such children's sleepwear.

(b) All sleepwear items as defined in § 1616.2(e), are subject to the requirements of this Standard.

(c) Children's sleepwear items which meet all the requirements of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of Part 1615 of this Chapter) are in compliance with this Standard. FF 3–71 was issued July 29, 1971 (36 FR 14062), and amended July 21, 1972 (37 FR 14624).

(d) As used in this Standard, "pass" and "fail" refer to the test criteria for specimens while "accept" and "reject" refer to the acceptance or rejection of a production unit under the sampling plan.

(e) The flammability standards for clothing textiles and vinyl plastic film, Parts 1610 and 1611 of this Chapter, are superseded by this Part 1616 insofar as they apply to items defined in § 1616.2(e).

§ 1616.2 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 2, 81 Stat. 568; 15 U.S.C. 1191) and the procedures under that Act for setting standards (Part 1607 of this Chapter), the following definitions apply for the purposes of this Standard:

(a) "Children's sleepwear" means any product of wearing apparel size 7 through size 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Underwear and diapers are excluded from this definition.

(b) "Sizes 7 through 14" means the sizes defined as 7 through 14 in Department of Commerce Voluntary Product Standards PS 54–72 and PS 36–70, previously identified as Commercial Standards, CS 153–48, "Body Measurements for the Sizing of Girls' Apparel" and CS 155–50, "Body Measurements for the Sizing of Boys' Apparel", respectively.[1]

(c) "Item" means any product of children's sleepwear or any fabric of related material intended or promoted for use in children's sleepwear.

(d) "Trim" means decorative materials, such as ribbons, laces, embroidery, or ornaments. This definition does not include (1) individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover in aggregate a total of more than 20 square inches of the item or (2) functional materials (findings), such as zippers, buttons or elastic bands, used in the construction of garments.

(e) "Test criteria" means the average char length and the maximum char length which a sample of specimen may exhibit in order to pass an individual test.

(f) "Char length" means the distance from the original lower edge of the specimen exposed to the flame in accordance with the procedure specified in § 1616.5 *Test procedure* to the end of the tear or void in the charred, burned, or damaged area, the tear being made in accordance with the procedure specified in § 1615.5

[1] Copies available from the National Technical Information Service, 5285 Port Royal Street, Springfield VA 22151.

(c) (2) *Specimen burning and evaluation.*

(g) "Afterglow" means the continuation of glowing of parts of a specimen after flaming has ceased.

(h) "Fabric piece" (piece) means a continuous, unseamed length of fabric, one or more of which make up a unit.

(i) "Fabric production unit" (unit) means any quantity of finished fabric up to 4,600 linear m. (5,000 linear yds.) for Normal Sampling or 9,200 linear m. (10,000 linear yds.) for Reduced Sampling which has a specific identity that remains unchanged throughout the unit except for color or print pattern as specified in § 1616.4(a). For purposes of this definition, finished fabric means fabric in its final form after completing its last processing step as a fabric except for slitting.

(j) "Garment production unit" (unit) means any quantity of finished garments up to 500 dozen which have a specific identity that remains unchanged throughout the unit except for size, trim, findings, color, and print patterns as specified in § 1616.4(a).

(k) "Sample" means five test specimens.

(l) "Specimen" means an 8.9±0.5 x 25.4±0.5 cm. (3.5±0.2 x 10±0.2 in.) section of fabric. For garment testing, the specimen will include a seam or trim.

§ 1616.3 General requirements.

(a) *Summary of test method.* Conditioned specimens are suspended one at a time vertically in holders in a prescribed cabinet and subjected to a standard flame along their bottom edges for a specified time under controlled conditions. The char lengths are recorded.

(b) *Test criteria.* The test criteria when the testing is done in accordance with § 1616.4 *Sampling and acceptance procedures* and § 1616.5 *Test procedures* are:

(1) *Average char length.* The average char length of five specimens shall not exceed 17.8 cm. (7.0 in.).

(2) *Full-specimen burn.* No individual specimen shall have a char length of 25.4±0.5 cm. (10±0.2 in.).

(c) Details of the number of specimens which must meet the above test criteria for unit acceptance is specified in § 1616.4.

§ 1616.4 Sampling and acceptance procedures.

(a) *General.* (1) The test criteria of § 1616.3(b) shall be used in conjunction with the following fabric and garment sampling plan. The Consumer Product Safety Commission may consider and approve other sampling plans that provide at least the equivalent level of fire safety to the consumer, provided such alternate sampling plans have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. Alternate sampling plans approved for one manufacturer may be used by other manufacturers without prior Consumer Product Safety Commission approval.

(2) Different colors or different print patterns of the same fabric may be included in a single fabric or garment production unit, provided such colors or print patterns demonstrate char lengths that are not significantly different from each other as determined by previous testing of at least three samples from each color or print pattern to be included in the unit.

(3) Garments with different trim and findings may be included in a single garment production unit provided the other garment characteristics are identical except for size, color, and print pattern.

(4) For fabrics whose flammability characteristics are not dependent on chemical additives or chemical reactants to polymer, fiber, yarns, or fabrics, the laundering requirement of § 1616.5(c)(4) is met on subsequent fabric production units if results of testing an initial fabric production unit demonstrate acceptability according to the requirements of paragraph (b) of this section, *Normal sampling*, both before and after the appropriate laundering.

(5) If the fabric has been shown to meet the laundering requirement, § 1616.5(c)(4), the garments produced from that fabric are not required to be laundered prior to testing.

(6) Each sample, (five specimens), for Fabric Sampling shall be selected so that two specimens are in one fabric direction (machine or cross-machine) and three specimens are in the other fabric direction, except for the additional sample selected after a failure, in which case all five specimens shall be selected in the fabric direction in which the specimen failure occurred.

(7) Fabric samples may be selected from fabric as outlined in paragraph (b) of this section, *Fabric sampling* or, for verification purposes, from randomly selected garments.

(8) Multi-layer fabrics shall be tested with a hem of approximately 2.5 cm. (1 in.) sewn at the bottom edge of the specimen with a suitable thread and stitch. The specimen shall include each of the components over its entire length. Garments manufactured from multi-layer fabrics shall be tested with the edge finish which is used in the garment at the bottom edge of the specimen.

(b) *Fabric sampling.* A fabric production unit (unit) is either accepted or rejected in accordance with the following plan:

(1) *Normal sampling.* Select one sample from the beginning of the first fabric piece (piece) in the unit and one sample from the end of the last piece in the unit, or select a sample from each end of the piece if the unit is made up of only one piece. Test the two selected samples. If both samples meet all the test criteria of § 1616.3(b), accept the unit. If either or both of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails any part of the test criteria, reject the unit.

(2) *Reduced sampling.* (i) The level of sampling required for fabric acceptance may be reduced provided the preceding 15 units of the fabric have all been accepted using the Normal Sampling Plan.

(ii) The reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of fabric in the unit may be increased to 9,200 linear m. (10,000 linear yds.)

(iii) Select and test two samples in the same manner as in Normal Sampling. Accept or reject the unit on the same basis as with Normal Sampling.

(iv) Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(3) *Tightened sampling.* Tightened sampling shall be used when a unit is rejected under the Normal Sampling Plan. The Tightened Sampling shall be the same as Normal Sampling except that one additional sample shall be selected and cut from a middle piece in the unit. If the unit is made up of less than two pieces, the unit shall be divided into at least two pieces. The division shall be such that the pieces produced by the division shall not be smaller than 92 linear m. (100 linear yds.) or greater than 2,300 linear m. (2,500 linear yds.). If the unit is made up of two pieces, the additional sample shall be selected from the interior end of one of the pieces. Test the three selected samples. If all three selected samples meet all the test criteria of § 1616.3(b), accept the unit. If one or more of the three selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If two or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If only one individual specimen, from the 15 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the same piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, accept the unit. If this additional sample fails any part of the test criteria, reject the unit. Tightened Sampling may be discontinued and Normal Sampling resumed after five consecutive units have all been accepted using Tightened Sampling. If Tightened Sampling remains in effect for 15 consecutive units, production of the specific fabric in Tightened Sampling must be discontinued until that part of the process or component which is causing failure has been iden-

tified and the quality of the end product has been improved.

(4) *Disposition of rejected units.* (i) The piece or pieces which have failed and resulted in the initial rejection of the unit may not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the (Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X) (FF 3–71) (Subpart A of Part 1615 of this Chapter) except after reworking to improve the flammability characteristics and subsequent retesting and acceptance in accordance with the procedures in *Tightened Sampling.*

(ii) The remainder of a rejected unit, after removing the piece or pieces, the failure of which resulted in unit rejection, may be accepted if the following test plan is successfully concluded at all required locations. The required locations are those adjacent to each such failed piece. (Required locations exist on both sides of the "Middle Piece" tested in Tightened Sampling if failure of that piece resulted in unit rejection). Failure of a piece shall be deemed to have resulted in unit rejection if unit rejection occurred and a sample or specimen from the piece failed any test criterion of § 1616.3(b).

(iii) The unit should contain at least 15 pieces for disposition testing after removing the failing pieces. If necessary for this purpose, the unit shall be demarcated into at least 15 approximately equal length pieces unless such division results in pieces shorter than 92 linear m. (100 linear yds.). In this latter case, the unit shall be demarcated into roughly equal length pieces of approximately 92 linear m. (100 linear yds.) each. If such a division results in five pieces or less in the unit for each failing piece after removing the failing pieces, only the individual pieces retest procedure [described in paragraph (b)(4)(vi) of this section] may be used.

(iv) Select and cut a sample from each end of each adjoining piece beginning adjacent to the piece which failed. Test the two samples from the piece. If both samples meet all the test criteria of § 1616.3(b), the piece is acceptable. If one or both of the two selected samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), the piece is unacceptable. If two or more of the individual specimens, from the 10 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), the piece is unacceptable. If only one individual specimen, from the 10 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select five additional specimens from the same end of the piece in which the failure occurred, all five to be taken in the fabric direction in which the specimen failure occurred. If this additional sample passes all the test criteria, the piece is acceptable. If this additional sample fails any part of the test criteria, the piece is unacceptable.

(v) Continue testing adjoining pieces until a piece has been found acceptable. Then continue testing adjoining pieces until three successive adjoining pieces, not including the first acceptable piece, have been found acceptable or until five such pieces, not including the first acceptable piece, have been tested, whichever occurs sooner. Unless three successive adjoining pieces have been found acceptable among five such pieces, testing shall be stopped and the entire unit rejected without further testing. If three successive pieces have been found acceptable among five such pieces, accept the three successive acceptable pieces and the remaining pieces in the unit.

(vi) (A) Alternately, individual pieces from a rejected unit containing three or more pieces may be tested and accepted or rejected on a piece by piece basis according to the following plan, after removing the piece or pieces, the failure of which resulted in unit rejection.

(B) Select four samples (two from each end) from the piece. Test the four selected samples. If all four samples meet all the test criteria of § 1616.3(b), accept the piece. If one or more of the samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the piece. If two or more of the individual specimens, from the 20 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the piece. If only one individual specimen, from the 20 selected specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select two additional samples from the same end of the piece in which the failure occurred. If these additional two samples meet all the test criteria of § 1616.3(b), accept the piece. If one or both of the two additional samples fail any part of the test criteria, reject the piece.

(vii) The pieces of a unit rejected after retesting may not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of Part 1615 of this chapter) except after reworking to improve the flammability characteristics, and subsequent retesting in accordance with the procedures set forth in *Tightened Sampling.*

(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of the Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(c) *Garment sampling.* (1)(i). The Garment Sampling Plan is made up of two parts: (1) Prototype Testing and (2) Production Testing. Prior to production, prototypes must be tested to assure that the design characteristics of the garment are acceptable. Garment production units (units) are then accepted or rejected on an individual unit basis.

(ii) Edge finishes such as hems, except in multi-layer fabrics, and binding are excluded from testing except that when trim is used on an edge the trim must be subjected to prototype testing. Seams attaching findings are excluded from testing.

(2) *Prototype testing.* Pre-production prototype testing of each seam and trim specification to be included in each garment in a garment production unit shall be conducted to assure that garment specifications meet the flammability requirements of the Standard prior to production.

(i) *Seams.* Make three samples (15 specimens) using the longest seam type and three samples using each other seam type 10 inches or longer that is to be included in the garment. For purposes of recordkeeping, prior to testing, assign each specimen to one of the three samples. Test each set of three samples and accept or reject each seam design in accordance with the following plan:

(A) If all three samples meet all the test criteria of § 1616.3(b), accept the seam design. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the seam design. If three or more of the individual specimens from the 15 selected specimens fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the seam design. If only one of the individual specimens from the 15 selected specimens fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the seam design.

(B) If two of the individual specimens; from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), select three more samples (15 specimens) and retest. If all three additional samples meet all the test criteria of § 1616.3(b), accept the seam design. If one or more of the three additional samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the seam design. If two or more of the individual specimens, from the 15 selected additional specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the seam design. If only one of the individual specimens, from the 15 selected additional specimens, fails the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the seam design.

(ii) *Trim*—(A) Make three samples (15 specimens) from each type of trim to be included in the garment. Specimens shall be prepared by sewing or attaching the trim to the center of the vertical axis of an appropriate section of untrimmed fabric, beginning the sewing or attachment at the lower edge of each specimen. The sewing or attachment shall be made in the manner in which the trim is to be attached to the garment.

(B) Sewing or otherwise attaching the trim shall be done with thread or fastening material of the same composition and size to be used for this purpose in the garment and using the same stitching or seam type or other attaching procedure. The trim shall be sewn or fastened the entire length of the specimen. Prior to testing, assign each specimen to one of the three samples. Test the sets of three

samples and accept or reject the type of trim and design on the same basis as seam design.

(3) *Production testing.* A unit is either accepted or rejected according to the following plan:

(i) *Normal sampling.* (A) From each unit, select at random sufficient garments and cut three samples (15 specimens) from the longest seam type. No more than five specimens may be cut from a single garment. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample. Test the three selected samples. If all three samples meet all the test criteria of § 1616.3(b), accept the unit. If one or more of the three samples fail the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), reject the unit. If four or more of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), reject the unit. If three or less of the individual specimens, from the 15 selected specimens, fail the 25.4 cm. (10 in.) char length criterion, § 1616.3(b)(2), accept the unit.

(B) If the garment under test does not have a seam at least 10 inches long in the largest size in which it is produced, the following selection and testing procedure shall be followed:

(*1*) Select and cut specimens 8.9 cm. (3.5 in.) wide by the maximum available seam length, with the seam in the center of the specimen and extending the entire specimen length. Cut three samples (15 specimens). These specimens shall be placed in specimen holders so that the bottom edge is even with the bottom edge of the specimen holder and the seam begins in the center of the bottom edge. Prior to testing, assign each specimen to one of the three samples. All specimens cut from a single garment must be included in the same sample.

(2) Test the three samples. If all three samples pass the 17.8 cm. (7.0 in.) average char length criterion, § 1616.3(b)(1), and if three or fewer individual specimens fail by charring the entire specimen length, accept the unit. If the unit is not accepted in the above test, three samples (15 specimens) of the longest seam type shall be made using fabric and thread from production inventory and sewn on production machines by production operators. The individual fabric sections prior to sewing must be no larger than 20.3 x 63.3 cm. (8 x 25 in.) and must be selected from more than one area of the base fabric. Test the three prepared samples. Accept or reject the unit as described previously in this subsection.

(ii) *Reduced sampling.* (A) The level of sampling required for garment acceptance may be reduced provided the previous 15 units of the garments have all been accepted using the Normal Sampling Plan. The Reduced Sampling Plan shall be the same as for Normal Sampling except that the quantity of garments under test may be increased to up to two production units containing garments which have the same specific identity except for size, trim, findings, color, and print patterns as specified in paragraph (a) of this section.

(*B*) Select and test three samples in the same manner as in Normal Sampling. Accept or reject both units on the same basis as with Normal Sampling. Reduced Sampling shall be discontinued and Normal Sampling resumed if a unit is rejected.

(4) *Disposition of rejected units.* Rejected units shall not be retested, used, or promoted for use in children's sleepwear as defined in §§ 1616.2(a) and 1615.1(a) of the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) (Subpart A of Part 1615 of this chapter) except after reworking to improve the flammability characteristics and subsequent retesting in accordance with the procedures set forth in *Garment production testing* [Paragraph (c)(3) of this section].

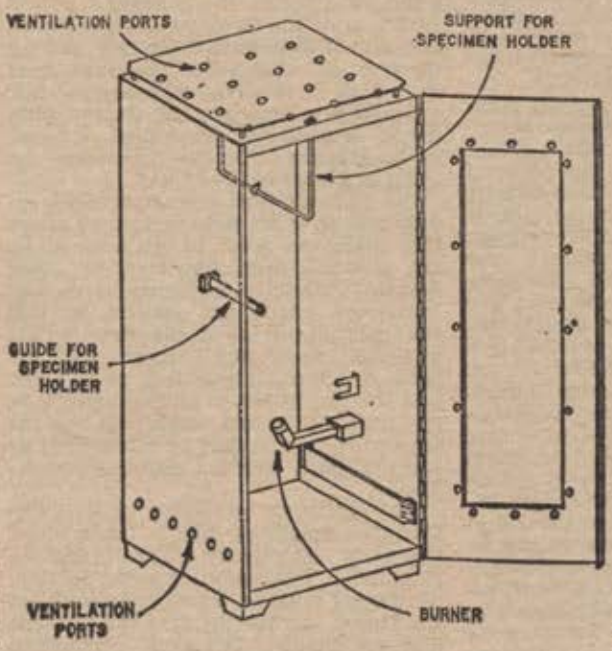
(5) *Records.* Written and physical records related to all tests performed under this Standard must be maintained by the manufacturer, importer, or other persons initially introducing items into commerce which are subject to this Standard, beginning on the effective date of this Standard. Such records shall include results of all tests, sizes of all units, and the disposition of all rejected pieces and units. Rules and regulations regarding recordkeeping may be established by the Consumer Product Safety Commission.

(d) *Compliance market sampling plan.* Sampling plans for use in market testing of items covered by this Standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such plans will, in fact, fail this Standards. Production units found to be noncomplying under the provisions of paragraph (d) of this section, shall be deemed not to conform to this Standard. The Consumer Product Safety Commission may publish such plans in the FEDERAL REGISTER.

§ 1616.5 Test procedure.

(a) *Apparatus.* The following test apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Product Safety Commission.

(1) *Test chamber.* The test chamber shall be a steel cabinet with inside dimensions of 32.9 cm. (12 15/16 in.) wide, 32.9 cm. (12 15/16 in.) deep and 76.2 cm. (30 in.) high. It shall have a frame which permits the suspension of the specimen holder over the center of the base of the cabinet at such a height that the bottom of the specimen is 1.7 cm. (¾ in.) above the highest point of the barrel of the gas burner specified in paragraph (a)(3) of this section, *Burner* and perpendicular to the front of the cabinet. The front of the cabinet shall be a close-fitting door with a transparent insert to permit observation of the entire test. The cabinet floor may be covered with a piece of asbestos paper, whose length and width are approximately 2.5 cm. (1 in.) less than the cabinet floor dimensions. The cabinet to be used in this test method is illustrated in Figure 1 and detailed in Engineering Drawings, Numbers 1 through 7.



VERTICAL TEST CABINET
FIGURE 1

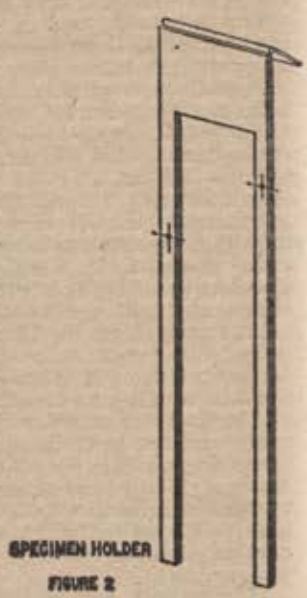
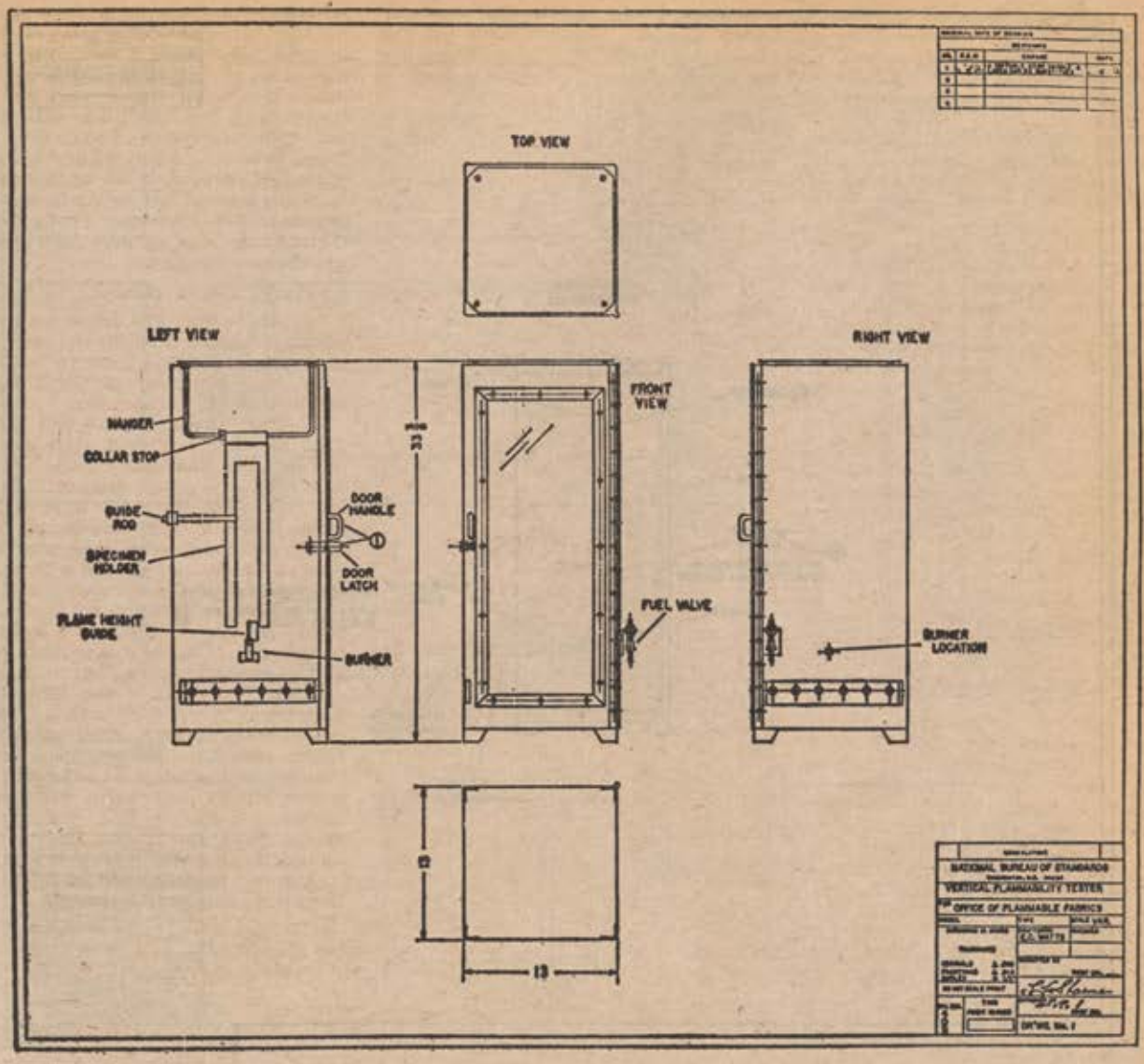
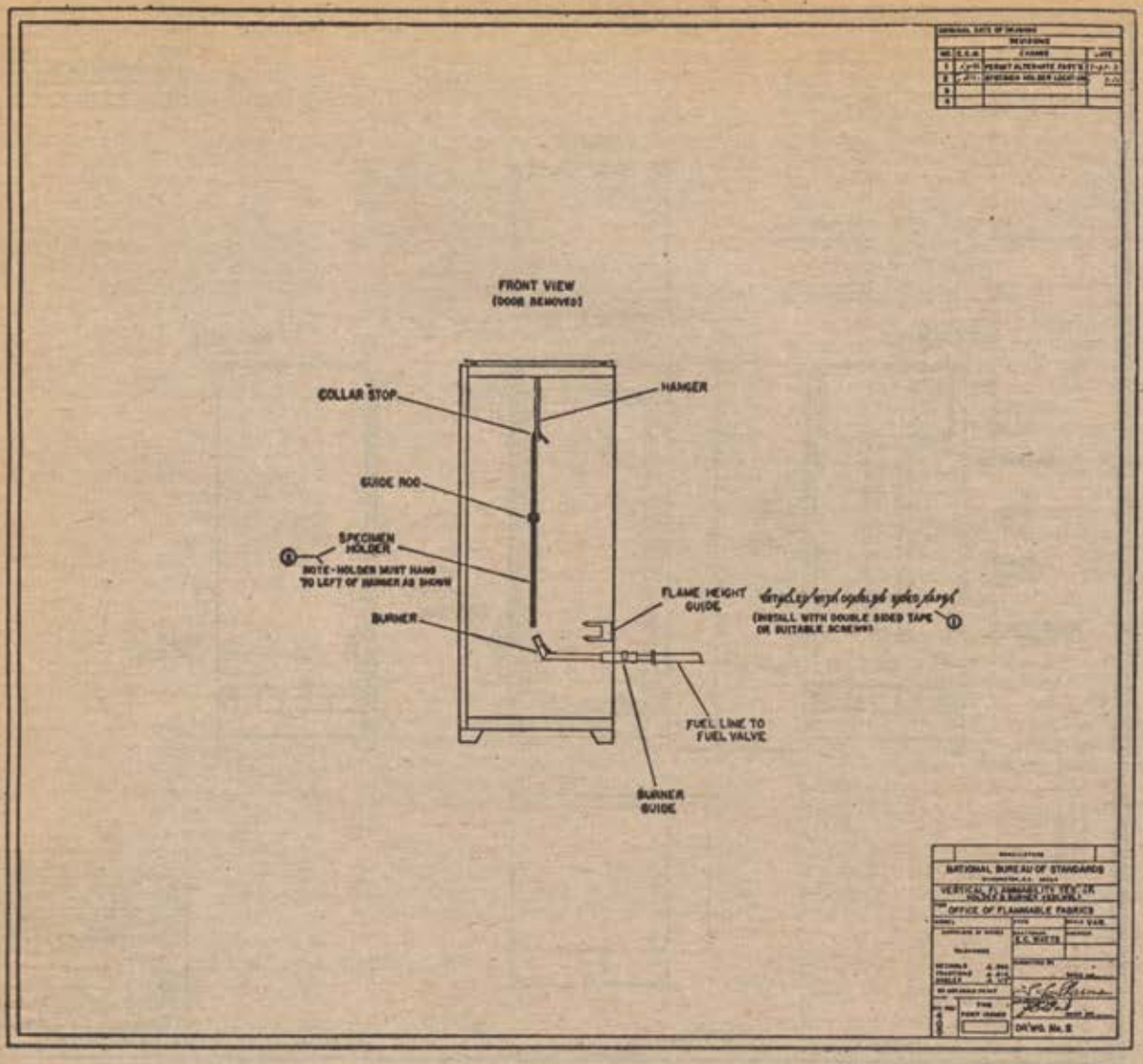
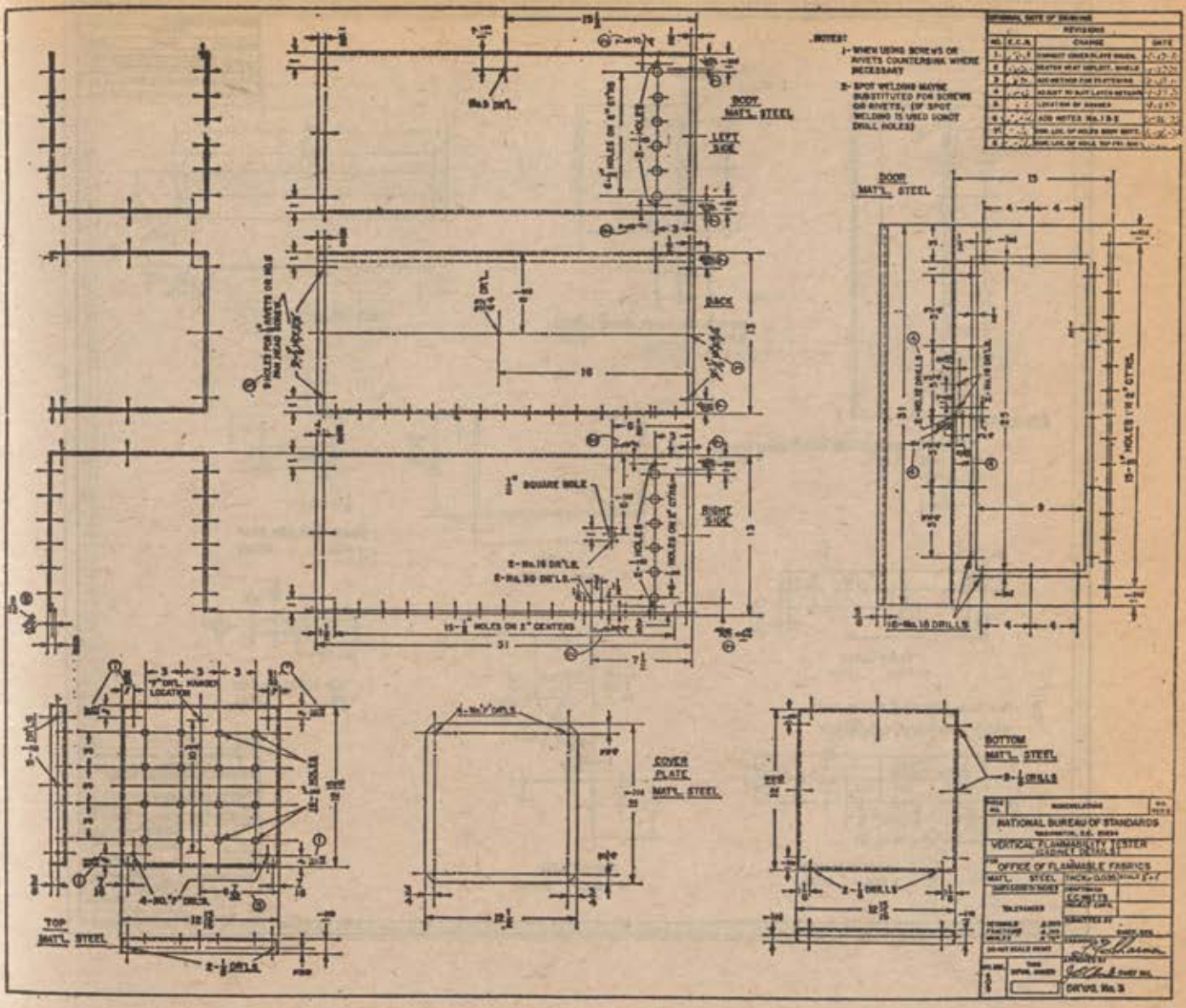
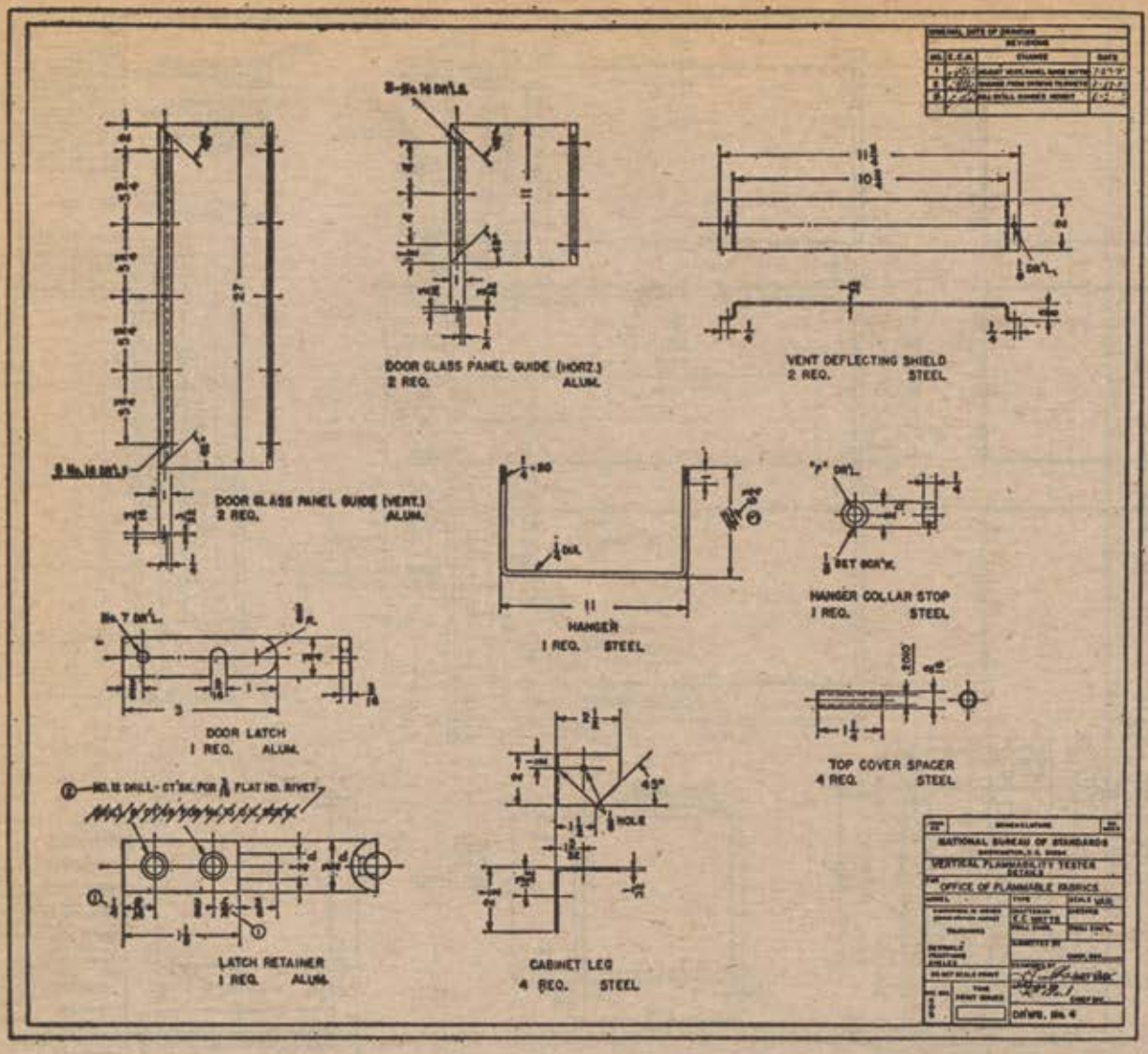


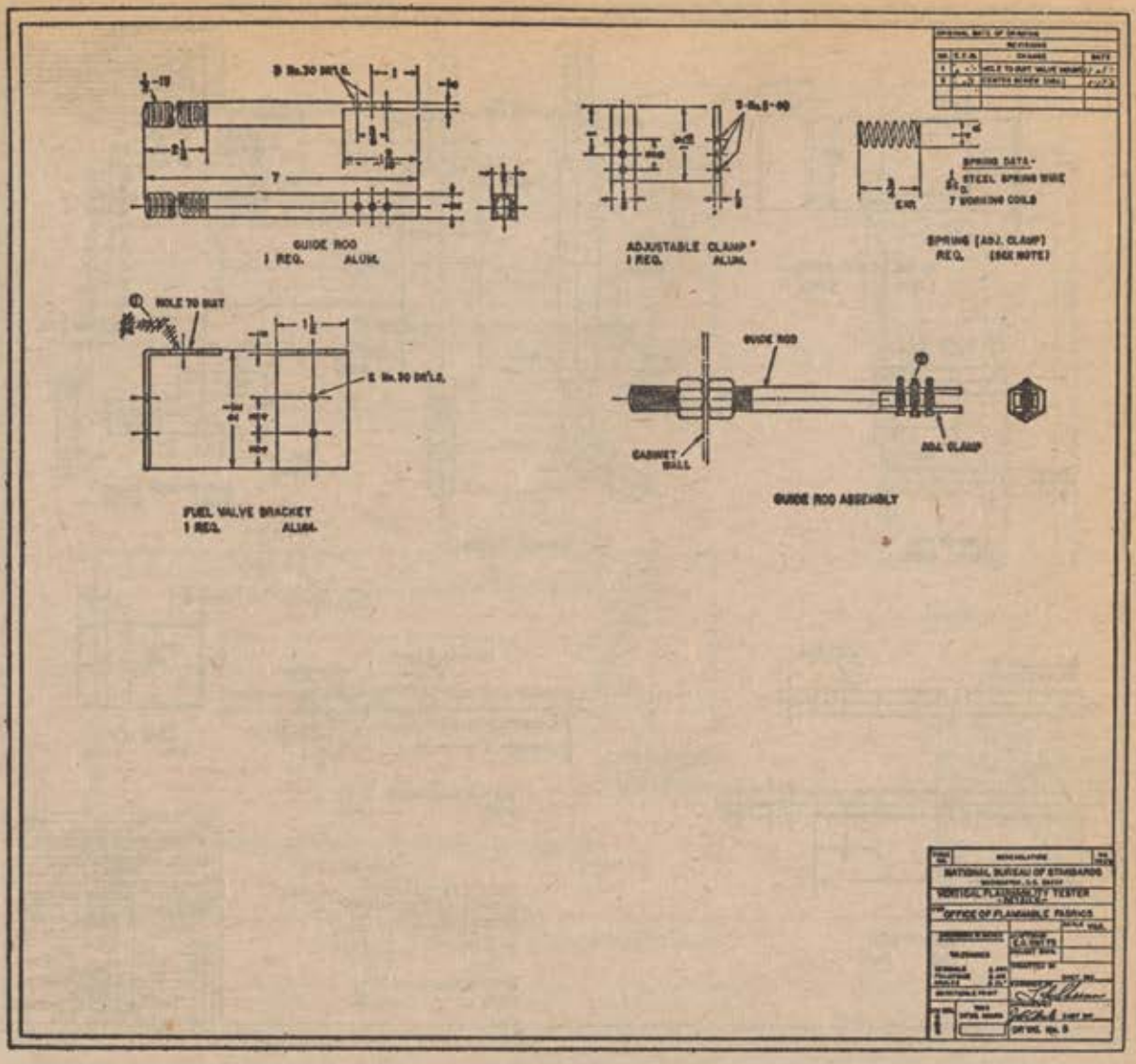
FIGURE 2

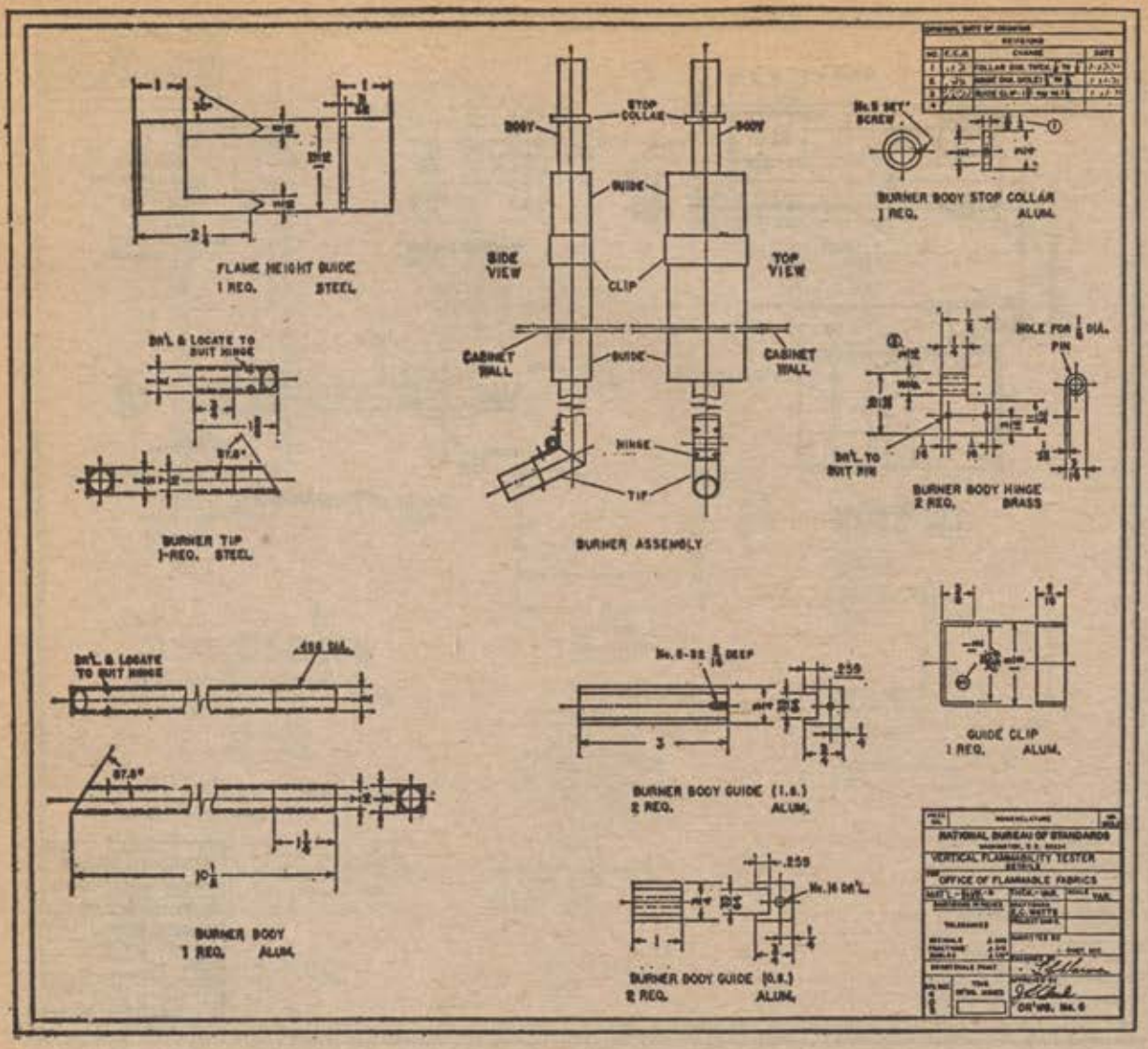

TOP VIEW
LEFT VIEW
RIGHT VIEW
FRONT VIEW
HANGER
COLLAR STOP
GUIDE ROD
SPECIMEN HOLDER
FLAME HEIGHT GUIDE
DOOR HANDLE
DOOR LATCH
BURNER
FUEL VALVE
BURNER LOCATION
12
13
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS

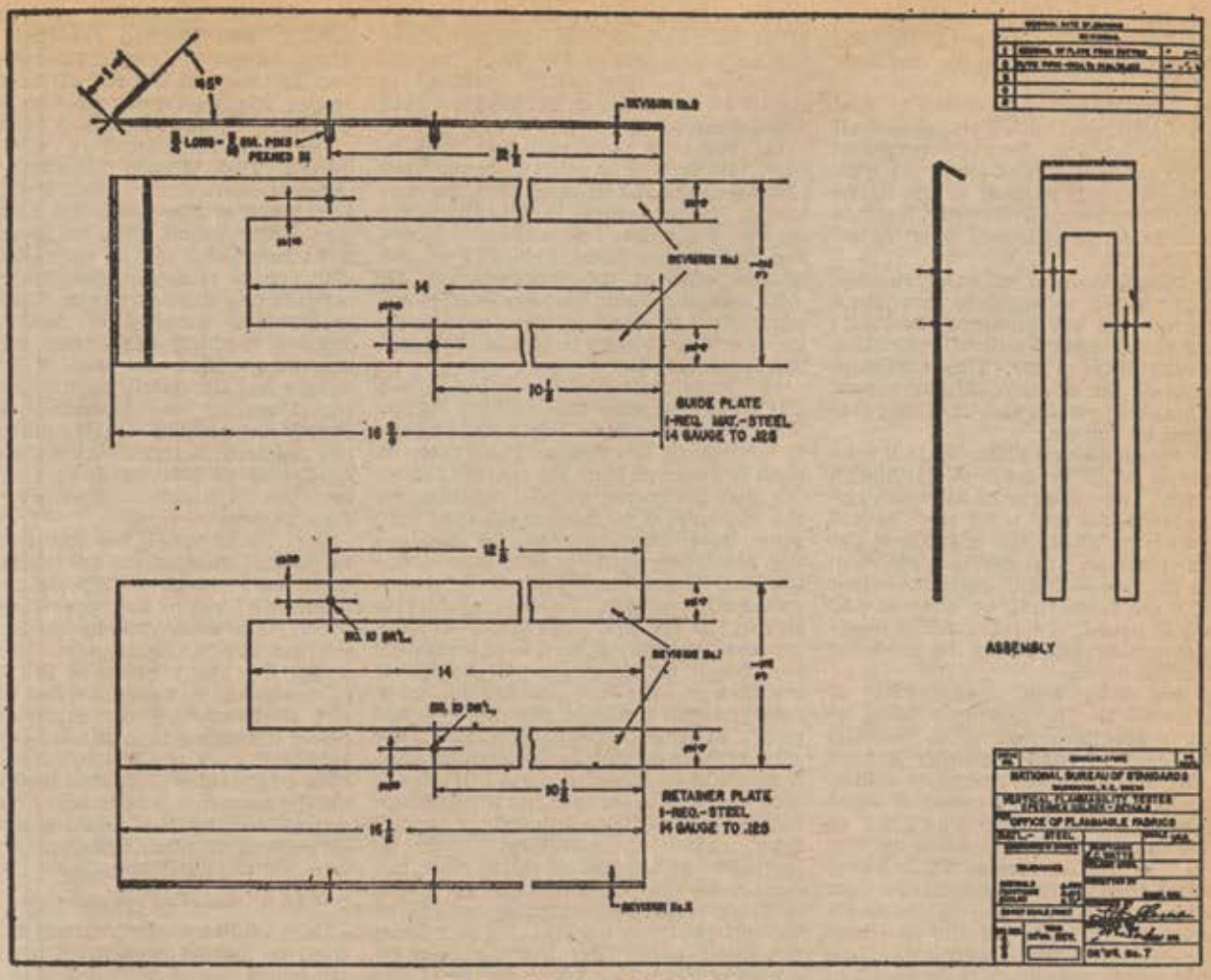

FRONT VIEW
(DOOR REMOVED)
COLLAR STOP
HANGER
GUIDE ROD
SPECIMEN HOLDER
NOTE-HOLDER MUST HANG TO LEFT OF BURNER AS SHOWN
FLAME HEIGHT GUIDE
(INSTALL WITH DOUBLE SIDED TAPE OR SUITABLE SCREWS)
BURNER
FUEL LINE TO FUEL VALVE
BURNER GUIDE
NATIONAL BUREAU OF STANDARDS
OFFICE OF FLAMMABLE FABRICS


NOTES:
1- WHEN USING SCREWS OR RIVETS COUNTERSINK WHERE NECESSARY
2- SPOT WELDING MAYBE SUBSTITUTED FOR SCREWS OR RIVETS, (IF SPOT WELDING IS USED DONOT DRILL HOLES)
DOOR MAT'L. STEEL
LEFT SIDE
BACK
RIGHT SIDE
1" SQUARE HOLE
COVER PLATE MAT'L. STEEL
BOTTOM MAT'L. STEEL
TOP MAT'L. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS
DRWG. No. 3


DOOR GLASS PANEL GUIDE (VERT.)
2 REQ. ALUM.
DOOR GLASS PANEL GUIDE (HORZ.)
2 REQ. ALUM.
VENT DEFLECTING SHIELD
2 REQ. STEEL
HANGER
1 REQ. STEEL
HANGER COLLAR STOP
1 REQ. STEEL
DOOR LATCH
1 REQ. ALUM.
TOP COVER SPACER
4 REQ. STEEL
LATCH RETAINER
1 REQ. ALUM.
CABINET LEG
4 REQ. STEEL
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS


GUIDE ROD
1 REQ. ALUM.
ADJUSTABLE CLAMP *
1 REQ. ALUM.
SPRING DATA -
STEEL SPRING WIRE
7 WORKING COILS
SPRING (ADJ. CLAMP)
REQ. (SEE NOTE)
HOLE TO SUIT
FUEL VALVE BRACKET
1 REQ. ALUM.
GUIDE ROD
CABINET WALL
ADJ. CLAMP
GUIDE ROD ASSEMBLY
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS


FLAME HEIGHT GUIDE
1 REQ. STEEL
BURNER TIP
1 REQ. STEEL
BURNER ASSEMBLY
BODY
STOP COLLAR
GUIDE
CLIP
SIDE VIEW
TOP VIEW
CABINET WALL
HINGE
TIP
BURNER BODY STOP COLLAR
1 REQ. ALUM.
BURNER BODY HINGE
2 REQ. BRASS
GUIDE CLIP
1 REQ. ALUM.
BURNER BODY
1 REQ. ALUM.
BURNER BODY GUIDE (I.S.)
2 REQ. ALUM.
BURNER BODY GUIDE (O.S.)
2 REQ. ALUM.
NATIONAL BUREAU OF STANDARDS
VERTICAL FLAMMABILITY TESTER
OFFICE OF FLAMMABLE FABRICS



[FR Doc.74-9712 Filed 4-30-74;8:45 am]

(2) *Specimen holder.* The specimen holder to be used in this test method is detailed in Engineering Drawing Number 7. It is designed to permit suspension of the specimen in a fixed vertical position and to prevent curling of the specimen when the flame is applied. The specimen shall be fixed between the plates, which shall be held together with side clamps.

(3) *Burner.* The burner shall be the same as that illustrated in Figure 1 and detailed in Engineering Drawing Number 6. It shall have a tube of 1.1 cm. (0.43 in.) inside diameter. The input line to the burner shall be equipped with a needle valve. It shall have a variable orifice to adjust the height of the flame. The barrel of the burner shall be at an angle of 25 degrees from the vertical. The burner may be equipped with an adjustable stop collar so that it may be positioned quickly under the test specimen. The burner shall be connected to the gas source by rubber or other flexible tubing.

(4) *Gas supply system.* There shall be a pressure regulator to furnish gas to the burner under a pressure of 103–259 mm. Hg. (2–5 lbs. per sq. in.) at the burner inlet. (*Caution.* Precautionary laboratory practices must be followed to prevent the leakage of methane. Methane is a flammable gas which can be explosive when mixed with air and exposed to a source of ignition, and can cause asphyxiation because of the lack of air.)

(5) *Gas.* The gas shall be at least 97 percent pure methane.

(6) *Hooks and weights.* Metal hooks and weights shall be used to produce a series of loads for char length determinations. Suitable metal hooks consist of No. 19 gauge steel wire, or equivalent, made from 7.6 cm. (3 in.) lengths of the wire, bent 1.3 cm. (0.5 in.) from one end to a 45-degree angle hook. The longer end of the wire is fastened around the neck of the weight to be used and the other in the lower end of each burned specimen to one side of the burned area. The requisite loads are given in Table 1.

TABLE 1.—*Original fabric weight* [1]

Grams per square meter	Ounces per square yard	Loads	
		Grams	Pounds
Less than 101	Less than 3	54.4	0.12
101 to 207	3 to 6	113.4	.25
207 to 338	6 to 10	226.8	.50
Greater than 338	Greater than 10	340.2	.75

[1] Weight of the original fabric, containing no seams or trim, is calculated from the weight of a specimen which has been conditioned for at least 8 hr at 21±1.1° C (70±2° F) and 65±2 pct relative humidity. Shorter conditioning times may be used if the change in weight of a specimen in successive weighings made at intervals of not less than 2 hr does not exceed 0.2 pct of the weight of the specimen.

(7) *Stopwatch.* A stopwatch or similar timing device shall be used to measure time to 0.1 second.

(8) *Scale.* A linear scale graduated in mm. or 0.1-inch divisions shall be used to measure char length.

(9) *Circulating air oven.* A forced circulation drying oven capable of main-

taining the specimens at 105±2.8° C. (221±5° F.), shall be used to dry the specimen while mounted in the specimen holders.[5]

(10) *Desiccator.* An air-tight and moisture-tight desiccating chamber shall be used for cooling mounted specimens after drying. Anhydrous silica gel with an indicator shall be used as the desiccant in the desiccating chamber. Replace or reactivate the desiccant when it becomes inactive.

(11) *Hood.* A hood or other suitable enclosure shall be used to provide a draft-protected environment surrounding the test chamber without restricting the availability of air. This enclosure shall have a fan or other suitable means for exhausting smoke and/or toxic gases produced by testing.

(12) *Extinguishing plates.* Extinguishing plates shall be used to extinguish afterglow. The plates shall be metal, approximately 35.6 cm. x 5.1 cm. (14 x 2 in.) which fit within the opening of the specimen holder. The bottom plate shall be the thickness of the specimen holder and the top plate shall be at least 0.32 cm. (⅛ in.) thick. A suitable metal specimen mounting block may be used for the bottom plate.

(b) *Mounting and conditioning of specimens*—(1) The specimens shall be placed in specimen holders so that the bottom edge of each specimen is even with the bottom of the specimen holder. Mount the specimen in as close to a flat configuration as possible. The sides of the specimen holder shall cover 1.9 cm. (¾ in.) of the specimen width along each long edge of the specimen, and thus shall expose 5.1 cm. (2 in.) of the specimen width. The sides of the specimen holder shall be clamped with a sufficient number of clamps or shall be taped to prevent the specimen from being displaced during handling and testing. The specimens may be taped in the holders if the clamps fail to hold them. Place the mounted specimens in the drying oven in a manner that will permit free circulation of air at 105° C. (221° F.) around them for 30 minutes.[6]

(2) Remove the mounted specimens from the oven and place them in the desiccator for 30 minutes to cool. No more than five specimens shall be placed in a desiccator at one time. Specimens shall remain in the desiccator no more than 60 minutes.

(c) *Testing*—(1) *Burner adjustment.* With the hood fan turned off, use the needle valve to adjust the flame height of the burner to 3.8 cm. (1½ in.) above the highest point of the barrel of the burner. A suitable height indicator is shown in Engineering Drawing Number 6 and Figure 1.

(2) *Specimen burning and evaluation.* (i) One at a time, the mounted specimens shall be removed from the desiccator and suspended in the cabinet for testing. The cabinet door shall be closed and the burner flame impinged on the bottom edge of the specimen for 3.0 ±0.2 seconds.[7] Flame impingement is accomplished by moving the burner under the specimen for this length of time, and then removing it.

(ii) When flaming has ceased, remove the specimen from the cabinet, except for specimens which exhibit afterglow. If afterglow is evident, the specimen shall be removed from the cabinet 1 minute after the burner flame is impinged on the specimen if no flaming exists at that time. Upon removal from the cabinet, the afterglow shall be promptly extinguished. The afterglow shall be extinguished by placing the specimen while still in the specimen holder on the bottom extinguishing plate and immediately covering it with the top plate until all evidence of afterglow has ceased. After removing the specimen from the cabinet and, if appropriate, extinguishing afterglow, remove it from the holder and place it on a flat clean surface. Fold the specimen lengthwise along a line through the highest peak of the charred or melted area; crease the specimen firmly by hand. Unfold the specimen and insert the hook with the correct weight as shown in Table 1 in the specimen on one side of the charred area 6.4 mm. (¼ in.) from the lower edge. Tear the specimen by grasping the other lower corner of the fabric and gently raising the specimen and weight clear of the supporting surface.[8] Measure the char length as the distance from the end of the tear to the original lower edge of the specimen exposed to the flame. After testing each specimen, vent the hood and cabinet to remove the smoke and/or toxic gases.

(3) *Report.* Report the value of char length, in centimeters (or inches), for each specimen, as well as the average char length for each set of five specimens.

(4) *Laundering.* (i) The procedures described under § 1616.4 *Sampling and acceptance procedures.* § 1616.5(b) *Conditioning and mounting of specimens,* and (c) *Testing,* shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to the laundering procedure in AATCC Test Method 124–1969.[9] Items which do not withstand 50 launderings may be tested at the end of their useful service life with prior approval of the Consumer Product Safety Commission.

(ii) Washing procedure 6.2(III) of AATCC Test Method 124–1969, with a water temperature of 60±2.8° C. (140±5° F.) and drying procedure 6.3.2(B) of that Test method, shall be used. Maximum load shall be 3.64 kg. (8 lbs.) and may consist of any combination of test samples and dummy pieces. Alternately, a different number of times under another washing and drying procedure may be specified and used. If that procedure has previously been found to be equivalent by the Consumer Product Safety Commission. Such laundering is not required of items which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(iii) Items which are not susceptible to being laundered and are labeled "dry-clean only" shall be dry-cleaned by a procedure which has previously been found to be acceptable by the Consumer Product Safety Commission.

(iv) For the purpose of the issuance of a guarantee under Section 8 of the Act, finished sleepwear garments to be tested according to § 1616.4(c) *Garment sampling,* need not be laundered or dry-cleaned provided all fabrics used in making the garments (except trim) have been guaranteed by the fabric producer to be acceptable when tested according to § 1616.4(b) *Fabric sampling.*

§ 1616.6 Labeling requirements.

(a) All items of children's sleepwear shall be labeled with precautionary instructions to protect the items from agents or treatments which are known to cause significant deterioration of their flame resistance. If the item has been initially tested under § 1616.5(c)(4) *Laundering,* after one washing and drying, it shall be labeled with instructions to wash before wearing. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

(b) All items of children's sleepwear in sizes 7 through 14 complying with this Standard (including those items that comply with FF 3–71) and manufactured on or after May 1, 1975 through May 1, 1978, shall bear a label which states: "Flame-resistant, U.S. Standard FF 5–74." The label must be prominent, conspicuous, legible and readily visible at the point of sale to ultimate consumers. The label statement may be attached to the item itself, on a hang tag attached to the item, or on a package enclosing the item. The label need not be affixed permanently.

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[5] Procedure 1(1.1.1) of ASTM D 2654–71 "Standard Methods of Test for moisture content and moisture regain of textile material," describes a satisfactory oven (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103).

[6] If the specimens are moist when received, permit them to air dry in laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing". (1972 Book of ASTM Standards, Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.)

[7] If more than 30 seconds elapse between removal of a specimen from the desiccator and the initial flame impingement, that specimen shall be reconditioned prior to testing.

[8] A figure showing how this is done is given in AATCC Test method 34–1969, "Fire Resistance of Textile Fabrics," Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

[9] Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 46, 1970, published by AATCC, P.O. Box 12215, Research Triangle Park, North Carolina 27709.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112-13, as amended 81 Stat. 571; 15 U.S.C. 1194.

§ 1616.31 Labeling, recordkeeping, retail display and guaranties.

(a) *Definitions.* For the purpose of this section, the following definitions apply:

(1) "Standard" means the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74) (Subpart A of Part 1616 of this Chapter) promulgated by the Consumer Product Safety Commission in the FEDERAL REGISTER of May 1, 1974 (39 FR 15214), and amended in the FEDERAL REGISTER of March 21, 1975 (40 FR 12811) (correction notice published for technical reasons on March 27, 1975, 40 FR 13547).

(2) "Children's sleepwear" means "children's sleepwear" as defined in § 1616.2(a) of the Standard, that is, "any product of wearing apparel size 7 through 14, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition."

(3) "Item" means "item" as defined in § 1616.2(c) of the Standard, that is, "any product of children's sleepwear or any fabric or related material intended or promoted for use in children's sleepwear."

(4) "Market or handle" means any one or more of the transactions set forth in section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(5) The definition of terms set forth in § 1616.2 of the Standard shall also apply to this section.

(b) *Labeling.* (1) Where any agent or treatment is known to cause deterioration of flame resistance or otherwise causes an item to be less flame resistant, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment.

(2) If the item has been initially tested under § 1616.5(c)(4) of the Standard after one washing and drying, it shall be prominently, permanently, conspicuously and legibly labeled with instructions to wash before wearing.

(3) Where any fabric or related material intended or promoted for use in children's sleepwear subject to the Standard is sold or intended for sale to the ultimate consumer for the purpose of conversion into children's sleepwear, each bolt, roll, or other unit shall be labeled with the information required by this section. Each item or fabric or related material sold to an ultimate consumer must be accompanied by a label, as prescribed by this section, which can by normal household methods be permanently affixed by the ultimate consumer to any item of children's sleepwear made from such fabric or related material.

(4) (i) Where items required to be labeled or stamped in accordance with paragraphs (b)(1), (b)(2), and/or (b)(3) of this section and fabrics required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

(ii) Where garments required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser:

(A) The packages must also be prominently, conspicuously, and legibly labeled with the information required by paragraph (b)(7) of this section; or

(B) There must be a garment style identification that is prominent, conspicuous, and legible and readily visible to the prospective purchaser, either on a label or hang tag attached to the garment design or on the garment packages. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more GPU's and the style may include any number of garments the manufacturer chooses. Style identification means any numbers, letters, or combination thereof that are sufficient to identify the garments of the style and may include information such as color, season or size. If this option B is selected, in any recall of noncomplying items from a particular GPU,

(*1*) The garment manufacturer must recall the entire style(s) from all customers who purchased garments of the style(s) of which the GPU is part. However, retailers may elect to return only garments from the particular GPU necessitating the recall rather than the entire style(s) or portions of style(s) being recalled; and

(*2*) Within 48 hours of a written request, the garment manufacturer must supply to the Commission any samples in its possession of garments from the GPU, as requested. As required of all persons subject to this section, the garment manufacturer must also, within the time requested, supply to the Commission the names of any customers who purchased during a specified period of time, garments from the GPU (or the style(s) of which the GPU is a part) and supply access to all records required under the Standard and this section.

(5) Samples, swatches, or specimens used to promote or effect the sale of items subject to the Standard shall be labeled in accordance with this section with the information required by this section: Except that such information may appear on accompanying promotional materials attached to fabric samples, swatches or specimens used to promote the sale of fabrics to garment manufacturers. This requirement shall not apply, however, to samples, swatches, or specimens prominently, permanently, conspicuously, truthfully and legibly labeled: "Flammable, Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear; Sizes 7 through 14 (FF 5-74)."

(6) The information required on labels by this section shall be set forth separately from any other information appearing on the same label. Other information, representations, or disclosures not required by this section but placed on the same label with information required by this section, or placed on other labels elsewhere on the item, shall not interfere with the information required by this section. No person, other than the ultimate consumer, shall remove, mutilate, or cause or participate in the removal or mutilation of any label required by this section to be affixed to any item.

(7) Every manufacturer, importer, or other person (such as a converter) initially introducing items subject to the Standard into commerce shall assign to each item a unit identification (number, letter or date, or combination thereof) sufficient to identify and relate to the fabric production unit or garment production unit of which the item is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit under the Standard. The letters "GPU" and "FPU" may be used to designate a garment production unit identification and fabric production unit identification, respectively, at the option of the labeler. In addition to the requirements prescribed by this paragraph (b)(7), the requirements prescribed by paragraph (b)(4) of this section must be met for items marketed at retail in packages.

(i) Each garment subject to the Standard shall bear a label with minimum dimension of 1.3 centimeters (0.5 inch) by 1.9 centimeters (0.75 inch) containing the appropriate garment production unit identification for that garment in letters which are clear, conspicuous, and legible, and in a color which contrasts with the background of the label, or shall have such information stamped on the garment itself in letters which are clear, conspicuous, and legible, and in a color which contrasts with the background, and at least 2.54 centimeters (1 inch) in every direction from any other information. The stamp or label containing the garment production unit identification must be of such construction, and affixed to the garment in such a manner, as to remain on or attached to the garment, and legible and visible throughout its intended period of use.

(ii) The fabric production unit identification shall appear in letters at least 0.4 centimeter (one-sixth of an inch) in height against a contrasting background on each label that relates to such fabric and is required by the Textile Fiber Products Identification Act (15 U.S.C. 70-70k) and the regulations thereunder (16 CFR 303.1 through 303.45) or by the Wool Product Labeling Act of 1939 (15 U.S.C. 68-68j) and the regulations thereunder (16 CFR 300.1 through 300.35). When the information required by the Textile Fiber Products Identification Act or by the Wool Products Labeling Act of 1939 appears on an invoice used in lieu of labeling, the fabric production

unit identification required by this section may be placed clearly, conspicuously, and legibly on the same invoice in lieu of labeling.

(8) All items complying with the Standard and manufactured on or after May 1, 1975, through May 1, 1978, shall bear a label which states "Flame-resistant. U.S. Standard FF 5-74." The label must be prominent, conspicuous, and legible and readily visible at the point of sale to ultimate consumers. The label statement may be attached to the item itself, on a hang tag attached to the item, or on a package enclosing the item. The label need not be affixed permanently. The letters of the label must be at least 0.4 centimeter (one-sixth of an inch) in height and in a color which contrasts with the background of the label.

(c) *Segregation of complying and noncomplying items by retailer.* Every person who sells non-complying items (as defined in § 1616.2(c) of the Standard and paragraph (a)(3) of this section) at retail stores or other establishments open to the general public where goods are offered for sale shall:

(1) Display the items which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that no other merchandise is intermingled with those items; and identify such complying items with at least one sign, with black letters at least 2.5 centimeters (one inch) in height against a solid white background, bearing the statement "Flame resistant. Complies with the Standard for the Flammability of Children's Sleepwear (FF 5-74)."

(2) Display all other items of children's sleepwear, sizes 7 through 14, at a separate location within the store and identify these items with at least one sign, with black letters at least 2.5 centimeters (1 inch) in height against a solid white background, bearing the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5-74)."

(3) Segregate those items of children's sleepwear, sizes 7 through 14, which comply with the Standard, and for which the seller has documentary evidence of such compliance, so that they shall not be located within 91 centimeters (36 inches) of any other items of children's sleepwear, sizes 7 through 14, when displayed for sale to consumers.

(d) *Records—manufacturers, importers, or other persons initially introducing items into commerce*—(1) *General.* Every manufacturer, importer, or other person (such as a converter) initially introducing into commerce items subject to the Standard, irrespective of whether guaranties are issued under paragraph (e) of this section, shall maintain written and physical records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each production unit of articles of children's sleepwear, or fabrics or related materials intended or promoted for use in children's sleepwear, to the sale and delivery of the finished items and from the specific finished item to the manufacturing records. Such records shall show with respect to such items:

(i) Details, description and identification of any and all sampling plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan(s) and must relate the sampling plan(s) to the actual items produced, marketed, or handled. This requirement is not limited by other provisions of this paragraph (d).

(ii) Garment production units or fabric production units of all garments or fabrics marketed or handled. The records must relate to an appropriate production unit identification on or affixed to the item itself in accordance with paragraph (b)(7) of this section, and the production unit identification must relate to the garment production unit or fabric production unit.

(iii) Test results and details of all tests performed, both prototype and production, including char lengths of each specimen tested, average char lengths of the samples required to be tested, details of the sampling procedure employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedures and sampling plan specified by the Standard or authorized alternate sampling plan.

(iv) Disposition of all failing or rejected items. Such records must demonstrate that the items were retested or reworked and retested in accordance with the Standard prior to sale or distribution and that such retested or reworked and retested items comply with the Standard, or otherwise show the disposition of such items.

(v) Fiber content and manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Data and test results relied on as a basis for inclusion of different colors or different print patterns of the same fabric as a single fabric or garment production unit under § 1616.4(a)(2) of the Standard.

(vii) Data and test results relied on as a basis for reduced laundering of fabric or garments during test procedures under § 1616.5(c)(4) of the Standard and any quantities issued or received relating to laundering as well as details of the laundering procedure utilized.

(viii) Identification, composition, and details of application of any flame retardant treatments employed. All prototype and production records shall relate to such information.

(ix) Date and quantity of each sale or delivery of items subject to the Standard (except the date of sale to an ultimate consumer) and the name and address of the purchaser or recipient (except an ultimate consumer). The items involved in each sale or delivery shall be identified by production unit or by style. A style is a garment design or grouping, preselected by the manufacturer. A style may be composed of garments that form all or part of one or more garment production units and the style may include any number of garments the manufacturer chooses. If a person subject to the requirements of paragraph (d) of this section maintains sales records which identify the items sold or delivered by style, and if recall of one or more production units subject to the Standard is required, that person in recalling such production units shall notify all purchasers of items of the style in which such production unit or units were manufactured. Retailers may elect to return all items of the style involved, or all items of the production units subject to recall.

(2) *Fabrics.* In addition to the information specified in paragraph (d)(1) of this section, the written and physical records maintained with respect to each fabric production unit shall include (i) finished fabric samples sufficent to repeat the fabric sampling procedure required by § 1616.4 of the Standard for each production unit marketed or handled; and (ii) records to relate the samples to the actual fabric production unit. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the sampling and testing of any production unit in accordance with the Standard shall be furnished from these records within the time specified in the written request.

(3) *Garments—prototype testing.* In addition to the records specified in paragraph (d)(1) of this section, the following written and physical records shall be maintained with respect to the garment prototype testing required by the Standard:

(i) Specification, fiber content, and details of construction on all seams, fabrics, threads, stitches, and trims used in each garment style or type upon which prototype testing was performed, relating the same to such garment style or type and to all production units to which such prototype testing is applicable.

(ii) Samples sufficient to repeat the prototype tests required by § 1616.4 of the Standard for all fabrics, seams, threads, stitches, and trims used in such prototype testing, relating such samples to the records required by this paragraph (d), including the information required by paragraph (d)(3)(i) of this section. Upon written request of any duly authorized employee or agent of the Commission, samples sufficient for the testing of any prototype specimens identical to those specimens that were actually tested pursuant to the Standard shall be furnished from these records within the time specified in that written request.

(iii) A complete untested garment from each style or type of garment marketed or handled.

(iv) Remains of all physical specimens tested in accordance with the prototype testing required by § 1616.4 of the Standard, relating such samples to the records required by this paragraph (d), including information required by paragraph (d)(3)(i) of this section.

(4) *Garments—production testing.* In addition to the records required by paragraph (d)(1) of this section, written and physical records shall be maintained and shall show with respect to each garment production unit:

(i) Source and fabric production unit identification of all fabrics subject to testing used in each garment production unit.

(ii) Identification and appropriate reference to all prototype records and prototype tests applicable to each production unit.

(iii) Any guaranty relied upon to demonstrate that the fabric utilized in such garments meets the laundering requirements of the Standard.

(iv) Data sufficient to show that tested samples were selected from the production unit at random from regular production.

(v) Written data that will enable the Commission to obtain and test garments under any applicable compliance market sampling plan.

(5) *Record retention requirements.* The records required by this paragraph (d) shall be maintained for 3 years, except that records relating to prototype testing shall be maintained for as long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(e) *Tests for guaranty purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the Flammable Fabrics Act (15 U.S.C. 1197) for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard.

(f) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any item subject to the Standard, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

EFFECTIVE DATE. This section became effective May 1, 1975.

Subpart C—Interpretations and Policies

AUTHORITY: Secs. 1–17, 67 Stat. 111–15, as amended, 81 Stat. 568–74; 15 U.S.C. 1191–1204.

§ 1616.61 Enforcement policy.

(a) It is the policy of the Consumer Product Safety Commission that all items of children's sleepwear in sizes 7 through 14 (including garments and fabric or related material intended or promoted for use in such children's sleepwear) are subject to the Standard FF 5–74 (Subpart A of this Part) unless the manufacturing process has ended before May 1, 1975. The manufacturing process is deemed to end, for the purposes of the Standard, at the time the item is completely assembled, all functional materials have been affixed, and labeling of a permanent nature has been stamped, sewn, or otherwise permanently affixed to the item. Affixing of temporary price or promotional information or the packaging of items of sleepwear (including garments and fabrics or related material intended or promoted for use in such sleepwear) does not affect the date on which the manufacturing process is deemed to end.

(b) All items of children's sleepwear in sizes 7 through 14 (including garments and fabric or related material intended or promoted for use in such children's sleepwear) which are in inventory or with the trade on the effective date of Standard FF 5–74 are exempt from the requirements of the Standard. For domestically-made items of children's sleepwear in sizes 7 through 14 to be considered "in inventory or with the trade" on the effective date of the Standard, the manufacturing process must have ended prior to May 1, 1975. For foreign-made items of children's sleepwear in sizes 7 through 14 to be considered "in inventory or with the trade" on the effective date of the Standard, the manufacturing process must have ended and the goods must have been entered into the United States before May 1, 1975.

EFFECTIVE DATE: This policy became effective March 21, 1975. It was originally published as a notice on that date at 40 FR 12839.

§ 1616.62 Policy regarding retail display requirements for items.

For purposes of the retail display and identification requirements of § 1616.31 (c), and for those purposes only, any item which was manufactured before May 1, 1975, and for which a retailer has documentary evidence of compliance with all sampling and testing requirements of the Standard (FF 5–74) (Subpart A of this Part), will be deemed to be a complying item notwithstanding the absence of an affirmative label to indicate compliance with the Standard as required by § 1616.6(b) of the Standard and § 1616.31(b)(8), or the absence of a garment production unit identification or style identification which meets all requirements of §§ 1616.31(b) (4) and (7), provided that such an item complies with all other labeling requirements of § 1616.31(b).

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

§ 1616.63 Policy regarding garment production unit identification.

No provision of 16 CFR 1616.31(b)(7) prohibits placement of a garment production unit identification on a label containing other information. Provided, however, that when the garment production unit identification appears on a label containing other information, provisions of § 1616.31(b)(6) require that the garment production unit identification must be set forth separately from any other information appearing on the same label, and that information not required by the applicable enforcement regulation (§ 1616.31), but placed on the same label with the garment production unit identification, shall not interfere with the garment production unit identification.

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49537.

§ 1616.64 Policy regarding recordkeeping requirements.

No provision of the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5–74) (Subpart A of this Part) or of the enforcement regulations at § 1616.31 prohibits the utilization of fabric which was manufactured before May 1, 1975, and which was not manufactured in production units, in the manufacture of children's sleepwear garments which are subject to the Standard. When such fabric is utilized in the manufacture of such garments, the inability of the garment manufacturer to record the fabric production unit identification of such fabric does not constitute a violation of § 1616.31(d)(4)(i).

EFFECTIVE DATE: This policy was originally published as a notice on October 22, 1975 at 40 FR 49538.

PART 1630—STANDARD FOR THE SURFACE FLAMMABILITY OF CARPETS AND RUGS (FF 1–70)

Subpart A—The Standard

Sec.
1630.1 Definitions.
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1630.3 General requirements.
1630.4 Test procedure.
1630.5 Labeling.

Subpart B—Rules and Regulations

1630.31 Reasonable and representative tests and recordkeeping requirements.
1630.32 Carpets and rugs with fire-retardent treatment.

Subpart C—Washing Procedures

1630.61 Hide carpets and rugs—alternative washing procedure.
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1630.63 Suspension of washing requirements for carpets and rugs with alumina trihydrate in the backing.

Subpart A—The Standard

AUTHORITY: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

EFFECTIVE DATE: This standard became effective April 16, 1971. It was originally published as a notice on April 16, 1970 (35 FR 6211).

§ 1630.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under that act for setting standards (Part 1607 of this Chapter), the following definitions apply for the purposes of this Standard:

(a) "Acceptance Criterion" means that at least seven out of eight individual specimens of a given carpet or rug shall meet the test criterion as defined in this Standard.

(b) "Test Criterion" means the basis for judging whether or not a single specimen of carpet or rug has passed the test, i.e., the charred portion of a tested specimen shall not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) "Carpet" means any type of finished product made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used as a floor covering which is exposed to traffic in homes, offices, or other places of assembly or accommodation, and which may or may not be fastened to the floor by mechanical means such as nails, tacks, barbs, staples,

adhesives, and which has one dimension greater than 1.83 m. (6 ft.) and a surface area greater than 2.23 m.[2] (24 sq. ft.). Products such as "carpet squares", with one dimension less than 1.83 m. (6 ft.) and a surface area less than 2.23 m.[2] (24 sq. ft.), but intended to be assembled upon installation into assemblies which may have one dimension greater than 1.83 m. (6 ft.) and a surface area greater than 2.23 m.[2] (24 sq. ft.), are included in this definition. Mats, hides with natural or synthetic fibers, and other similar products in the above defined dimensions are included in this definition, but resilient floor coverings such as linoleum, asphalt tile and vinyl tile are not.

(d) "Rug" means the same as carpet and shall be accepted as interchangeable with carpet.

(e) "Traffic Surface" means a surface of a carpet or rug which is intended to be walked upon.

(f) "Timed Burning Tablet" (pill) means the methenamine tablet, weighing approximately 0.149 gram (2.30 grains), sold as Product No. 1588 in Catalog No. 79, December 1, 1969, by the Eli Lilly Company of Indianapolis, Ind. 46206, or an equal tablet.

(g) "Fire-Retardant Treatment" means any process to which a carpet or rug has been exposed which significantly decreases the flammability of that carpet or rug and enables it to meet the acceptance criterion of this Standard.

§ 1630.2 Scope and application.

(a) This Standard provides a test method to determine the surface flammability of carpets and rugs when exposed to a standard small source of ignition under carefully prescribed draft-protected conditions. It is applicable to all types of carpets and rugs used as floor covering materials regardless of their method of fabrication or whether they are made of natural or synthetic fibers or films, or combinations of or substitutes for these.

(b) One of a kind, carpet or rug, such as an antique, an Oriental, or a hide, may be excluded from testing under this Standard pursuant to conditions established by the Consumer Product Safety Commission.

§ 1630.3 General requirements.

(a) *Summary of test method.* This method involves the exposure of each of eight conditioned, replicate specimens of a given carpet or rug to a standard igniting source in a draft-protected environment, and measurement of the proximity of the charred portion to the edge of the hole in the prescribed flattening frame.

(b) *Test criterion.* A specimen passes the test if the charred portion does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) *Acceptance criterion.* At least seven of the eight specimens shall meet the test criterion in order to conform with this Standard.

§ 1630.4 Test procedure.

(a) *Apparatus*—(1) *Test chamber.* The test chamber shall consist of an open top hollow cube made of noncombustible material[1] with inside dimensions 30.48 x 40.48 x 30.48 cm. (12 x 12 x 12 in.) and a minimum of 6.35 (¼ in.) wall thickness. The flat bottom of the box shall be made of the same material as the sides and shall be easily removable. The sides shall be fastened together with screws or brackets and taped to prevent air leakage into the box during use.

NOTE: A minimum of two chambers and two extra bottoms is suggested for efficient operation.

(2) *Flattening frame.* A steel plate, 22.86 x 22.86 cm. (9 x 9 in.), 6.35 mm. (¼ in.) thick with a 20.32 cm. (8 in.) diameter hole in its center is required to hold the carpet or rug flat during the course of the test. It is recommended that one be provided for each test chamber.

(3) *Standard igniting source.* No. 1588 methenamine timed burning tablet or an equal tablet. These tablets shall be stored in a desiccator over a desiccant for 24 hours prior to use. (Small quantities of absorbed water may cause the tablets to fracture when first ignited. If a major fracture occurs, any results from that test shall be ignored, and it shall be repeated.)

(4) *Test specimens.* Each test specimen shall be a 22.86 x 22.86 cm. (9 x 9 in.) section of the carpet or rug to be tested. Eight specimens are required.

(5) *Circulating air oven.* A forced circulation drying oven capable of removing the moisture from the specimens when maintained at 105° C. (221° F.) for 2 hours.[2]

(6) *Desiccating cabinet.* An airtight and moisture tight cabinet capable of holding the floor covering specimens horizontally without contacting each other during the cooling period following drying, and containing silica gel desiccant.

(7) *Gloves.* Nonhygroscopic gloves (such as rubber polyethylene) for handling the sample after drying, and raising the pile on specimens prior to testing.

(8) *Hood.* A hood capable of being closed and having its draft turned off during each test and capable of rapidly removing the products of combustion following each test. The front or sides of the hood should be transparent to permit observation of the tests in progress.

(9) *Mirror.* A small mirror mounted above each test chamber at an angle to permit observation of the specimen from outside of the hood.

(10) *Vacuum cleaner.* A vacuum cleaner to remove all loose material from each specimen prior to conditioning. All surfaces of the vacuum cleaner contacting the specimen shall be flat and smooth.

(b) *Sampling*—(1) (i) *Selection of samples.* Select a sample of the material representative of the lot and large enough to permit cutting eight test specimens 22.86 x 22.86 cm. (9 x 9 in.), free from creases, fold marks, delaminations, or other distortions. The test specimens should contain the most flammable parts of the traffic surface at their centers. The most flammable area may be determined on the basis of experience or through pretesting.

(ii) If the carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or oversized specimens thereof shall be washed, prior to cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124–1967 of the American Association of Textile Chemists and Colorists [washing procedure 6.2 (III) with a water temperature of 60°±2.8° C. (140°±5° F.), drying procedure 6.3.2(B), maximum load 3.64 kg. (8 pounds)],[3] or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively, the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(2) *Cutting.* Cut eight 22.86±0.64 cm. (9±¼ in.) square specimens of each carpet or rug to be tested to comply with paragraph (b)(1) of this section.

(c) *Conditioning.* (1) Clean each specimen with the vacuum cleaner until it is free of all loose ends left during the manufacturing process and from any material that may have been worked into the pile during handling.[4] Care must be exercised to avoid "fuzzing" of the pile yarn.

(2) Place the specimens in the drying oven in a manner that will permit free circulation of the air at 105° C. (221° F.) around them for 2 hours.[5] Remove the specimens from the oven with gloved hands and place them horizontally in the desiccator with traffic surface up and free from contact with each other until

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[1] 6.35 mm (¼ in.) cement asbestos board is a suitable material.

[2] Option 1 of ASTM D 2654–67T, "Methods of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven. ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

[3] Technical Manual of the American Association of Textile Chemists and Colorists, Vol. 45, 1969, published by AATCC, Post Office Box 12215, Research Triangle Park, N.C. 27709.

[4] The vacuum cleaning described is not intended to simulate the effects of repeated vacuum cleaning in service.

[5] If the specimens are moist when received, permit them to air-dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing." ("1969 Book of ASTM Standards", Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

cooled to room temperature, but in no instance less than 1 hour.

(d) *Testing.* (1) Place the test chamber in the draft-protected environment (hood with draft off) with its bottom in place. Wearing gloves, remove a test specimen from the desiccator and brush its surface with a gloved hand in such a manner as to raise its pile. Place the specimen on the center of the floor of the test chamber, traffic surface up, exercising care that the specimen is horizontal and flat. Place the flattening frame on the specimen and position a methenamine tablet on one of its flat sides in the center of the 20.32 cm. (8 in.) hole.

(2) Ignite the tablet by touching a lighted match or an equivalent igniting source carefully to its top. If more than 2 minutes elapse between the removal of the specimen from the desiccator and the ignition of the tablet, the conditioning must be repeated.

(3) Continue each test until one of the following conditions occurs:

(i) The last vestige of flame or glow disappears. (This is frequently accompanied by a final puff of smoke.)

(ii) The flaming or smoldering has approached within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(4) When all combustion has ceased, ventilate the hood and measure the shortest distance between the edge of the hole in the flattening frame and the charred area. Record the distance measured for each specimen.

(5) Remove the specimen from the chamber and remove any burn residue from the floor of the chamber. Before proceeding to the next test, the floor must be cooled to normal room temperature or replaced with one that is at normal room temperature.

(e) *Report.* The number of specimens of the eight tested in which the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame shall be reported.

(f) *Interpretation of results.* If the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point for at least seven of the eight specimens, the carpet or rug meets the acceptance criterion.

§ 1630.5 Labeling.

If the carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T" pursuant to conditions established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112, as amended by 81 Stat. 570; 15 U.S.C. 1194.

§ 1630.31 Reasonable and representative tests and recordkeeping requirements.

[EXPLANATION: Section 8 of the act, among other things, provides that no person shall be subject to criminal prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product, fabric, or related material guaranteed was manufactured, or from whom it was received; to the effect that reasonable and representative tests made in accordance with applicable flammability standards show that the product, fabric, or related material covered by the guaranty conforms with such standards.

[While a person establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he and/or the merchandise involved, would nevertheless remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act as well as injunction and condemnation procedures under section 6 thereof. A guarantor derives no immunity of any kind, civil or criminal, from the issuance of his own guaranty or performance of the reasonable and representative tests prescribed by this section.

[The furnishing of guaranties is not mandatory under the act. The purpose of this section is to establish minimum requirements for reasonable and representative tests upon which guaranties may be based. The section does not have any legal effect beyond that specified in section 8 of the act.]

(a) For the purposes of this section the following definitions apply:

(1) "Standard" means the standards in Subpart A of this Part.

(2) "Test" means a test as prescribed by the Standard.

(3) "Acceptance criterion" means "acceptance criterion" as defined in the Standard.

(4) "Test criterion" means "test criterion" as defined in the Standard.

(5) "Carpet" and "rug" mean "carpet" and "rug" as defined in the Standard.

(6) "Quality of machine-made carpets or rugs" means any line of carpets or rugs, essentially machine-made, which are substantially alike in all respects, including, as applicable, constructional units (needles, pitch, rows, shot, stitches, and weight), dye class, dyestuff, dyeing application method, gage, pile levels, pile height, average pile thickness, pile weight, pile yarn, total thickness, total weight, tufts, tuft length, tuft bind, warp yarn, filler yarn, yarn ends per needle, loop length, backing, back coating, primary backing, secondary backing, backing thickness, backing fabric count, backing warp and filler yarns, including stuffer and dead frame yarns, backing weight, fiber and/or other materials content, and fire retardant treatment received including the specifications and quantity of chemicals used.

(7) "Quality of handmade or hide carpets or rugs" means any line of carpets or rugs which are essentially handmade and/or are essentially hides and which are alike in all respects, including those specified in paragraph (a)(6) of this section, where applicable, except that such carpets or rugs may vary where unavoidable and/or may vary because of natural variations in hides of the same type, so long as such variations do not affect flammability.

(b) The tests set forth in paragraphs (c), (d), (e), and (f) of this section are reasonable and representative tests with regard to any carpets or rugs or qualities thereof to which they apply, except, however, that any test of any quality, whenever performed, which does not show a meeting of the acceptance criterion of the Standard shall be considered the reasonable and representative test for that quality and no guaranty with respect thereto shall be issued after the performance of such test. Immediately before conditioning and testing, each carpet or rug specimen tested pursuant to this section shall be in the form in which the carpet or rug or quality thereof which it represents is sold or offered for sale to the ultimate consumer.

(c) Reasonable and representative tests with respect to any quality of machine-made carpets or rugs are (1) at least one test performed upon commencement of production, importation, or other receipt thereof, (2) at least one test performed after production, importation, or other receipt of the first 25,000 linear yards of the quality, and (3) at least one test after production, importation, or other receipt of every 50,000 linear yards of the quality thereafter. Except, however, that tests need be performed only after production, importation, or receipt of each additional 100,000 linear yards of the quality, so long as all 24 specimens required to be tested in a complete series of three required tests immediately preceding any given test (eight out of eight specimens in each of the three preceding tests) meet the test criterion, rather than seven out of eight specimens, as permitted under the acceptance criterion of the Standard.

(d) Reasonable and representative tests with respect to any quality of handmade or hide carpets or rugs are at least one test performed upon the commencement of production, importation, or other receipt thereof and at least one test after production, importation, or other receipt of every 10,000 square yards of the quality thereafter.

(e) Reasonable and representative tests of a one-of-a-kind carpet or rug, machine made, handmade, or hide, is one test thereof or one test of an identical representative sample.

(f) Guaranties for carpets or rugs in inventory upon the effective date of the Standard may be issued in the same manner as other guaranties are issued. Reasonable and representative tests with respective to qualities of such carpets or rugs are at least one test performed upon approximately the first linear yard and one test thereafter for each 25,000 linear yards of a quality of machine-made carpets or rugs and at least one test performed upon approximately the first square yard and thereafter for each 10,000 square yards of a category of hand-made or hide carpets or rugs, in the order of the production, importation, or receipt by the guarantor of that quality.

(g) Any person issuing a guaranty for one or more carpets or rugs or qualities thereof based on reasonable and representative tests, shall maintain the following records for a period of 3 years from the date the tests were performed, or in the case of paragraph (h) of this section, the date the guaranties were

furnished. These records must be maintained in the United States by a person subject to section 3 of the act:

(1) All identifying numbers, symbols, etc., manufacturing specifications including all other information described in paragraph (a)(6) of this section, as applicable, and source of products or raw materials used therein.

(2) A physical sample of each carpet or rug or quality thereof covered by the guaranty at least 6 inches by 6 inches in size (36 square inches).

(3) The original or a copy of the report of each test performed for purposes of the guaranty (whether or not such report shows a meeting of the acceptance criterion) which shall disclose the date of the test, the results, and sufficient information to clearly identify the carpet or rug tested.

(4) A record applicable to each test in paragraph (g)(3) of this section showing the approximate yardage at which it was performed. Records otherwise required to be maintained in linear yards may be maintained in square yards on the basis of 4 square yards equals 1 linear yard.

(h) Persons furnishing guaranties based on guaranties received by them shall maintain records showing the guaranty received and identification of the carpet or rug or quality thereof guaranteed in turn by them.

(i) Any person furnishing a carpet or rug guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

(Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570, 15 U.S.C. 1194; sec. 8, 67 Stat. 114, as amended, 81 Stat. 572, 15 U.S.C. 1197)

EFFECTIVE DATE: This section became effective July 20, 1971.

§ 1630.32 Carpets and rugs with fire-retardant treatment.

(a) For the purposes of this section the following definitions apply:

(1) "Carpet" and "rug" mean "carpet" and "rug" as defined in § 1630.31(c).

(2) "Fire-retardant treatment" means "fire-retardant treatment" as defined in the standard in Subpart A of this Part.

(b) If a carpet or rug or small carpet or rug is manufactured, imported, or otherwise marketed or handled which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, the letter "T" shall be set forth legibly and conspicuously, and shall appear at all times, on each label and/or invoice relating thereto pursuant to the requirements of the Textile Fiber Products Indentification Act, 15 U.S.C. section 70, et seq., and the rules and regulations thereunder, whether or not such letter "T" appears elsewhere on said product. Samples, pieces, rolls, or squares used to promote or effect the sale of such carpet or rug are subject to the aforementioned requirements. As provided in the applicable portions of the aforesaid Act and the rules and regulations thereunder, where a carpet or rug or a small carpet or rug; which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, is sold to an ultimate consumer and was either custom made or commercially installed for such consumer, the labeling required by this section shall not apply with respect to the carpet or rug if an invoice or other paper relating thereto, containing the letter "T", legibly and conspicuously written, is delivered to the consumer in due course of business.

(c) No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any carpet or rug or small carpet or rug, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. sec. 1194)

EFFECTIVE DATE: This section became effective January 22, 1973.

Subpart C—Washing Procedures

AUTHORITY: Secs. 4, 5, 67 Stat. 112, as amended, 81 Stat. 561–570; 15 U.S.C. 1193, 1194.

§ 1630.61 Hide carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1–70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124–1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On February 10, 1972 (37 FR 3010) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 1–70 for testing the flammability of shearling and hide rugs that (1) consist of natural wool or hair attached to the hide with no synthetic fibers and (2) have been treated with a fire-retardant finish. The notice of approval was corrected on March 17, 1972 (37 FR 5676). This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any hide carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH OR DRY CLEAN

This rug has been treated with a flame retardant. To keep rug attractive and clean use the following methods:

To eliminate loose dirt or dust, vacuum or shake pelt outdoors.

For spot cleaning, use water dampened cloth and rub lightly in one direction.

DO NOT USE DETERGENTS OR OTHER STAIN REMOVERS

(d) The alternative procedure is as follows: The test specimens shall be cut to size 9" x 9" before the procedure is initiated.

(1) Shake specimen vigorously to remove any loose fibers, dust and possible accumulated debris.

(2) Place specimen on a solid flat surface and anchor or hold firmly while conducting the test.

(3) Select an operating applicator consisting of a rod at least 2" in diameter and 9" long composed of nonabsorbant material such as glass or plastic.

(4) Select sufficient cloth to form at least five layers when wrapped around the operating applicator. The cloth shall be of the type known as "Crockmeter Test Cloth" as specified in Note 8.3 of AATCC Test Method 8–1969.

(5) Immerse cloth in water (100°F.) until thoroughly wetted.

(6) Manually wring out the cloth to remove all excess water and wrap around the operating applicator.

(7) Immediately with light pressure, stroke entire surface of specimen with the wrapped operating applicator in one direction only along the natural "lay" of the hair structure for ten complete strokes.

(8) Place test specimen in a circulating drying oven maintained at 212°F. until dry.

(9) Repeat the above procedure 10 times using a fresh or clean cloth each time.

(10) After 10 successive cycles of washing and drying the dried specimens shall be subjected to the testing procedures (pill test) as outlined in FF 1–70.

(e) This washing procedure and labeling provision are subject to revision or revocation should it be determined that such procedure is inadequate to fully protect the public.

§ 1630.62 Wool flokati carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Carpets and Rugs (FF 1–70) at § 1630.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124–1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed,

dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On September 7, 1972 (37 FR 18122) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 1–70 for testing the flammability of wool flokati carpets and rugs. This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any wool flokati carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH IN HOME MACHINE OR DRY CLEAN—AVOID RUBBING OR BRUSHING WHILE DAMP.

This Flokati carpet or rug has been treated with a flame retardant. To maintain this flame retardant and to keep the carpet attractive and clean, use the following methods.

1. Vacuum (using suction head without rotating brush) or shake the rug (depending upon size) to remove loose dirt.

2. Home laundering: Place in bath tub or other suitable receptacle in solution of home detergent and lukewarm water (approximately 105° F.). Immerse face down and gently knead back of rug to remove soil. Rinse in lukewarm water (approximately 105° F.) until detergent is removed. Rug may then be rinsed again in cool water to improve appearance of face if desired. Line dry. Shake while damp to restore surface and fluff up fibers.

3. Spot cleaning: Remove greasy stains with a household grease remover. Remove soluble stains with lukewarm water (approximately 105° F.) and detergent by immersing spot in a pan and kneading the back of rug. Rinse thoroughly in lukewarm water. Line or floor dry. Shake while damp to restore surface and fluff up fibers.

4. Commercial cleaning: Use Roll-A-Jet equipment (or equivalent) with water not exceeding 105° F. Avoid use of excessive pressure or reciprocating brushes. Drying temperatures should not exceed 200° F.

(d) The alternative procedure is as follows:

(1) Cut test specimens to an oversize of 12" x 12" before the procedure is initiated.

(2) Vacuum specimens or shake vigorously to remove any loose fibers, dust or possible accumulated debris.

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2" with a wash solution of 1½ grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 124–1967 (or equivalent) per liter of water preheated to 105° F. Knead the back of the specimen with hand for 1 minute. Water level and temperature should be maintained for each specimen.

(4) Thoroughly rinse specimen face down with warm water at 105° F. for 1 minute under a faucet with strong pressure.

(5) Remove excess liquor by use of a wringer, hydroextractor or gentle hand squeezing and dry in circulating air oven at 200° F. until dry.

(6) Repeat the above procedure 10 times using fresh detergent and fresh water for each set of eight specimens.

(7) Subject the dry specimens to the test procedures in FF 1–70.

(e) This washing procedure and labeling provisions are subject to revocation should it be determined that such procedure is inadequate to fully protect the public.

§ 1630.63 Suspension of washing requirements for carpets and rugs with alumina trihydrate in the backing.

(a) (1) The Standard for the Surface Flammability of Carpets and Rugs (FF 1–70) at § 1630.4(b) (1) (ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124–1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(2) Section 1630.5 of the Standard provides that if a carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T."

(b) On April 10, 1972, the Federal Trade Commission, which then had responsibility for enforcement of the Flammable Fabrics Act, announced that the use of alumina trihydrate in adhesives, foams, or latexes in carpet backings or elsewhere in the backings will be considered as a fire-retardant treatment. Therefore, the provisions of §§ 1630.4(b) (1) (ii) and 1630.5 of the Standard apply to carpets with alumina trihydrate in the backings. This interpretation continues in effect.

(c) On May 19, 1972, the Federal Trade Commission published a notice in the FEDERAL REGISTER (37 FR 10104) temporarily suspending the washing requirements under FF 1–70 for carpets and rugs containing alumina trihydrate in the backing. This temporary suspension was extended a number of times. On March 28, 1973 the Federal Trade Commission proposed in the FEDERAL REGISTER (38 FR 8101) an alternative laundering procedure for such carpets and rugs and gave notice that the suspension of the laundering requirement was extended until the completion of the proceeding to establish an alternative laundering procedure. The suspension continues in effect.

PART 1631—STANDARD FOR THE SURFACE FLAMMABILITY OF SMALL CARPETS AND RUGS; (FF 2–70)

Subpart A—The Standard

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Subpart C—Washing Procedures

1631.61 Hide carpets and rugs—alternative washing procedure.
1631.62 Wool flokati carpets and rugs—alternative washing procedure.

Subpart A—The Standard

AUTHORITY: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193.

EFFECTIVE DATE: This standard became effective December 29, 1971. It was originally published as a notice on December 29, 1970 (35 FR 19702).

§ 1631.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act, as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191), and the procedures under that act for setting standards (Part 1607 of this chapter), the following definitions apply for the purposes of this Standard:

(a) "Acceptance Criterion" means that at least seven out of eight individual specimens of a small carpet or rug shall meet the test criterion as defined in this Standard.

(b) "Test Criterion" means the basis for judging whether or not a single specimen of small carpet or rug has passed the test, i.e., the charred portion of a tested specimen shall not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) "Small Carpet" means any type of finished product made in whole or in part of fabric or related material and intended for use or which may reasonably be expected to be used as a floor covering which is exposed to traffic in homes, offices, or other places of assembly or accommodation, and which may or may not be fastened to the floor by mechanical means such as nails, tacks, barbs, staples, adhesives, and which has no dimension greater than 1.83 m. (6 ft.) and an area not greater than 2.23 m^2 (24 sq. ft.). Products such as "Carpet Squares" with dimensions smaller than these but intended to be assembled upon installa-

tion, into assemblies which may have dimensions greater than these, are excluded from this definition. They are, however, included in the Standard for the surface flammability of carpets and rugs (FF 1–70) (Subpart A of Part 1630 of this Chapter). Mats, hides with natural or synthetic fibers, and other similar products are included in this definition if they are within the defined dimensions, but resilient floor coverings such as linoleum, asphalt tile and vinyl tile are not.

(d) "Small Rug" means, for the purposes of this Standard, the same as small carpet and shall be accepted as interchangeable with small carpet.

(e) "Traffic Surface" means a surface of a small carpet or rug which is intended to be walked upon.

(f) "Timed Burning Tablet" (pill) means the methenamine tablet, weighing approximately 0.149 grams (2.30 grains), sold as Product No. 1588 in Catalog No. 79, December 1, 1969, by the Eli Lilly Company of Indianapolis, Ind. 46206, or an equal tablet.

(g) "Fire - Retardant Treatment" means any process to which a small carpet or rug has been exposed which significantly decreases the flammability of that small carpet or rug and enables it to meet the acceptance criterion of this Standard.

§ 1631.2 Scope and application.

This Standard provides a test method to determine the surface flammability of small carpets and rugs when exposed to a standard small source of ignition under carefully prescribed draft-protected conditions. It is applicable to all types of small carpets and rugs used as floor covering materials regardless of their method of fabrication or whether they are made of natural or synthetic fibers or films, or combinations of, or substitutes for these.

One of a kind small carpet or rug, such as an antique, an Oriental or a hide, may be excluded from testing under this Standard pursuant to conditions established by the Consumer Product Safety Commission.

§ 1631.3 General requirements.

(a) *Summary of test method.* This method involves the exposure of each of eight conditioned, replicate specimens of a small carpet or rug to a standard igniting source in a draft-protected environment and measurement of the proximity of the charred portion to the edge of the hole in the prescribed flattening frame.

(b) *Test criterion.* A specimen passes the test if the charred portion does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(c) *Acceptance criterion.* At least seven of the eight specimens shall meet the test criterion in order to conform with this Standard.

§ 1631.4 Test procedure.

(a) *Apparatus*—(1) *Test chamber.* The test chamber shall consist of an open top hollow cube made of noncombustible material[1] with inside dimensions 30.48 x 30.48 x 30.48 cm. (12 x 12 x 12 in.) and a minimum of 6.35 mm. (¼ in.) wall thickness. The flat bottom of the box shall be made of the same material as the sides and shall be easily removable. The sides shall be fastened together with screws or brackets and taped to prevent air leakage into the box during use.

NOTE: A minimum of two chambers and two extra bottoms is suggested for efficient operation.

(2) *Flattening frame.* A steel plate, 22.86 x 22.86 cm. (9 x 9 in.) 6.35 mm. (¼ in.) thick with a 20.32 cm. (8 in.) diameter hole in its center is required to hold the specimen flat during the course of the test. It is recommended that one be provided for each test chamber.

(3) *Standard igniting source.* No. 1588 methenamine timed burning tablet or an equal tablet. These tablets shall be stored in a desiccator over a desiccant for 24 hours prior to use. (Small quantities of absorbed water may cause the tablets to fracture when first ignited. If a major fracture occurs, any results from that test shall be ignored, and it shall be repeated.)

(4) *Test specimens.* Each test specimen shall be a 22.86 x 22.86 cm. (9 x 9 in.) section of the small carpet or rug to be tested. Eight specimens are required.

(5) *Circulating air oven.* A forced circulation drying oven capable of removing the moisture from the specimens when maintained at 105° C. (221° F.) for 2 hours.[2]

(6) *Desiccating cabinet.* An airtight and mosture tight cabinet capable of holding the floor covering specimens horizontally without contacting each other during the cooling period following drying, and containing silica gel desiccant.

(7) *Gloves.* Nonhygroscopic gloves (such as rubber or polyethylene) for handling the sample after drying and raising the pile on specimens prior to testing.

(8) *Hood.* A hood capable of being closed and having its draft turned off during each test and capable of rapidly removing the products of combustion following each test. The front or sides of the hood should be transparent to permit observation of the tests in progress.

(9) *Mirror.* A small mirror mounted above each test chamber at an angle to permit observation of the specimen from outside the hood.

(10) *Vacuum cleaner.* A vacuum cleaner to remove all loose material from each specimen prior to conditioning. All surfaces of the vacuum cleaner contacting the specimen shall be flat and smooth.

[1] 6.35 mm. (¼ in.) cement asbestos board is a suitable material.

[2] Option 1 of ASTM D 2654–67T, "Methods of Test for Amount of Moisture in Textile Materials," describes a satisfactory oven. ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.)

(b) *Sampling*—(1) *Selection of samples.* (i) Select a sample of the material representative of the lot and large enough to permit cutting eight test specimens 22.86 x 22.86 cm. (9 x 9 in.) free from creases, fold marks, delaminations or other distortions. The representative sample of material may require the use of more than one small carpet or rug. The test specimens should contain the most flammable parts of the traffic surface at their centers. The most flammable area may be determined on the basis of experience or through pretesting.

(ii) If the small carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the selected sample or oversized specimens thereof shall be washed, prior to cutting of test specimens, either 10 times under the washing and drying procedure prescribed in Method 124–1967 of the American Association of Textile Chemists and Colorists [washing procedure 6.2 (III) with a water temperature of 60±2.8° C (140±5° F.), drying procedure 6.3.2(B), maximum load 3.64 kg (8 pounds)],[3] or such number of times under such other washing and drying procedures as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively, the selected sample or oversized specimens thereof may be washed, drycleaned, or shampooed 10 times, prior to cutting of test specimens, in such manner as the manufacturer or other interested party shall previously have established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of small carpet or rug in service.

(2) *Cutting.* Cut eight 22.86±0.64 cm. 9±¼ in.) square specimens of each small carpet or rug to be tested to comply with paragraph (b)(1) of this section.

(c) *Conditioning.* (1) Clean each specimen with the vacuum cleaner until it is free of all loose ends left during the manufacturing process and from any material that may have been worked into the pile during handling.[4] Care must be exercised to avoid "fuzzing" of the pile yarn.

(2) Place the specimens in a drying oven in a manner that will permit free circulation of the air at 105° C. (221° F.) around them for 2 hours.[5] Remove the

[3] Technical Manual of the American Association of Textile Chemists and Colorists, vol. 45, 1969, published by AATCC, Post Office Box 12215, Research Triangle Park, NC 27709.

[4] The vacuum cleaning described is not intended to simulate the effects of repeated vacuum cleaning in service.

[5] If the specimens are moist when received, permit them to air-dry at laboratory conditions prior to placement in the oven. A satisfactory preconditioning procedure may be found in ASTM D 1776–67, "Conditioning Textiles and Textile Products for Testing." ("1969 Book of ASTM Standards," Part 24, published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.)

specimens from the oven with gloved hands and place them horizontally in the desiccator with traffic surface up and free from contact with each other until cooled to room temperature, but in no instance less than 1 hour.

(d) *Testing.* (1) Place the test chamber in the draft-protected environment (hood with draft off) with its bottom in place. Wearing gloves, remove a test specimen from the desiccator and brush its traffic surface with a gloved hand in such a manner as to raise its pile. Place the specimen on the center of the floor of the test chamber, traffic surface up, exercising care that the specimen is horizontal and flat. Place the flattening frame on the specimen and position a methenamine tablet on one of its flat sides in the center of the 20.32 cm. (8 in.) hole.

(2) Ignite the tablet by touching a lighted match or an equivalent igniting source carefully to its top. If more than 2 minutes elapse between the removal of the specimen from the desiccator and the ignition of the tablet, the conditioning must be repeated.

(3) Continue each test until one of the following conditions occurs:

(i) The last vestige of flame or glow disappears. (This is frequently accompanied by a final puff of smoke.)

(ii) The flaming or smoldering has approached within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point.

(4) When all combustion has ceased, ventilate the hood and measure the shortest distance between the edge of the hole in the flattening frame and the charred area. Record the distance measured for each specimen.

(5) Remove the specimen from the chamber and remove any burn residue from the floor of the chamber. Before proceeding to the next test, the floor must be cooled to normal room temperature or replaced with one that is at normal room temperature.

(e) *Report.* The number of specimens of the eight tested in which the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame shall be reported.

(f) *Interpretation of results.* If the charred area does not extend to within 2.54 cm. (1.0 in.) of the edge of the hole in the flattening frame at any point for at least seven of the eight specimens, the small carpet or rug meets the acceptance criterion.

§ 1631.5 Labeling requirements.

(a) If a small carpet or rug does not meet the acceptance criterion, it shall, prior to its introduction into commerce, be permanently labeled, pursuant to rules and regulations established by the Consumer Product Safety Commission with the following statement: FLAMMABLE (FAILS U.S. DEPARTMENT OF COMMERCE STANDARD FF 2-70): SHOULD NOT BE USED NEAR SOURCES OF IGNITION.

(b) If a small carpet or rug has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

Subpart B—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570; 15 U.S.C. 1194, unless otherwise noted.

§ 1631.31 Reasonable and representative tests and recordkeeping requirements.

EXPLANATION: Section 8 of the Act, among other things, provides that no person shall be subject to criminal prosecution under section 7 of the act for a violation of section 3 of the act if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product, fabric, or related material guaranteed was manufactured, or from whom it was received, to the effect that reasonable and representative tests made in accordance with applicable flammability standards show that the product, fabric, or related material covered by the guaranty conforms with such standards.

[While a person establishing a guaranty received in good faith would not be subject to criminal prosecution under section 7 of the act, he, and/or the merchandise involved, would nevertheless remain subject to the administrative processes of the Consumer Product Safety Commission under section 5 of the act as well as injunction and condemnation procedures under section 6 thereof. A guarantor derives no immunity of any kind, civil or criminal, from the issuance of his own guaranty or performance of the reasonable and representative tests prescribed by this section.

[The furnishing of guaranties is not mandatory under the act. The purpose of this section is to establish minimum requirements for reasonable and representative tests upon which guaranties may be based. The section does not have any legal effect beyond that specified in section 8 of the act.]

(a) For the purposes of this section the following definitions apply:

(1) "Standard" means the Standard in Subpart A of this Part.

(2) "Test" means a test as prescribed by the Standard.

(3) "Acceptance criterion" means "acceptance criterion" as defined in the Standard.

(4) "Test criterion" means "test criterion" as defined in the Standard.

(5) "Carpet" and "rug" mean "carpet" and "rug" as defined in the Standard.

(6) "Quality of machine-made carpets or rugs" means any line of carpets or rugs, essentially machine-made, which are substantially alike in all respects, including, as applicable, constructional units (needles, pitch, rows, shot, stitches, and weight), dye class, dyestuff, dyeing application method, gage, pile levels, pile height, average pile thickness, pile weight, pile yarn, total thickness, total weight, tufts, tuft length, tuft bind, warp yarn, filler yarn, yarn ends per needle, loop length, backing, back coating, primary backing, secondary backing, backing thickness, backing fabric count, backing warp and filler yarns, including stuffer and dead frame yarns, backing weight, fiber and/or other materials content, and fire retardant treatment received including the specifications and quantity of chemicals used.

(7) "Quality of handmade or hide carpets or rugs" means any line of carpets or rugs which are essentially handmade and/or are essentially hides and which are alike in all respects, including those specified in paragraph (a)(6) of this section, where applicable, except that such carpets or rugs may vary where unavoidable and/or may vary because of natural variations in hides of the same type, so long as such variations do not affect flammability.

(b) The tests set forth in paragraphs (c), (d), (e), and (f) of this section are reasonable and representative tests with regard to any carpets or rugs or qualities thereof to which they apply, except, however, that any test of any quality, whenever performed, which does not show a meeting of the acceptance criterion of the Standard shall be considered the reasonable and representative test for that quality and no guaranty with respect thereto shall be issued after the performance of such test. Immediately before conditioning and testing, each carpet or rug specimen tested pursuant to this section shall be in the form in which the carpet or rug or quality thereof which it represents is sold or offered for sale to the ultimate consumer.

(c) Reasonable and representative tests with respect to any quality of machine-made carpets or rugs are (1) at least one test performed upon commencement of production, importation, or other receipt thereof, (2) at least one test performed after production, importation, or other receipt of the first 25,000 linear yards of the quality, and (3) at least one test after production, importation, or other receipt of every 50,000 linear yards of the quality thereafter. Except, however, that tests need be performed only after production, importation, or receipt of each additional 100,000 linear yards of the quality, so long as all 24 specimens required to be tested in a complete series of three required tests immediately preceding any given test (eight out of eight specimens in each of the three preceding tests) meet the test criterion, rather than seven out of eight specimens, as permitted under the acceptance criterion of the Standard.

(d) Reasonable and representative tests with respect to any quality of handmade or hide carpets or rugs are at least one test performed upon the commencement of production, importation, or other receipt thereof and at least one test after production, importation, or other receipt of every 10,000 square yards of the quality thereafter.

(e) Reasonable and representative tests of a one-of-a-kind carpet or rug, machine made, handmade, or hide, is one test thereof or one test of an identical representative sample.

(f) Guaranties for carpets or rugs in inventory upon the effective date of the Standard may be issued in the same manner as other guaranties are issued. Reasonable and representative tests with respect to qualities or such carpets or rugs are at least one test performed upon approximately the first linear yard and one test thereafter for each 25,000 linear

yards of a quality of machine-made carpets or rugs and at least one test performed upon approximately the first square yard and thereafter for each 10,000 square yards of a category of hand-made or hide carpets or rugs, in the order of the production, importation, or receipt by the guarantor of that quality.

(g) Any person issuing a guaranty for one or more carpets or rugs or qualities thereof based on reasonable and representative tests, shall maintain the following records for a period of 3 years from the date the tests were performed, or in the case of paragraph (h) of this section, the date the guaranties were furnished. These records must be maintained in the United States by a person subject to section 3 of the act:

(1) All identifying numbers, symbols, etc., manufacturing specifications including all other information described in paragraph (a)(6) of this section, as applicable, and source of products or raw materials used therein.

(2) A physical sample of each carpet or rug or quality thereof covered by the guaranty at least 6 inches by 6 inches in size (36 square inches).

(3) The original or a copy of the report of each test performed for purposes of the guaranty (whether or not such report shows a meeting of the acceptance criterion) which shall disclose the date of the test, the results, and sufficient information to clearly identify the carpet or rug tested.

(4) A record applicable to each test in paragraph (g)(3) of this section showing the approximate yardage at which it was performed. Records otherwise required to be maintained in linear yards may be maintained in square yards on the basis of 4 square yards equals 1 linear yard.

(h) Persons furnishing guaranties based on guaranties received by them shall maintain records showing the guaranty received and identification of the carpet or rug or quality thereof guaranteed in turn by them.

(i) Any person furnishing a carpet or rug guaranty under section 8(a) of the act who neglects or refuses to maintain and preserve the records prescribed in this section shall be deemed to have furnished a false guaranty under the provisions of section 8(b) of the act.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. section 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

EFFECTIVE DATE: This section became effective July 20, 1971.

§ 1631.32 Reasonable and representative tests and recordkeeping requirements—additional requirements.

(a) Persons issuing guaranties under section 8(a) of the act for small carpets and rugs subject to FF 2–70 shall be subject to all of the requirements of § 1631.31 except as provided in paragraph (b) of this section.

(b) In lieu of performing tests and maintaining records on the basis of linear yards or square yards as provided in § 1631.31 persons furnishing warranties for small carpets and rugs subject to FF 2–70 shall perform tests and maintain records on the basis of units of carpets or rugs, with "unit" being defined as a single carpet or rug, or on the basis of square yards. At least one test shall be performed upon commencement of production, importation, or other receipt of such small carpet or rug and every 25,000 units or square yards thereafter.

(Sec. 5 of the Act, 67 Stat. 112, as amended by 81 Stat. 570, 15 U.S.C. section 1194; sec. 8 of the Act, 67 Stat. 114, as amended by 81 Stat. 572, 15 U.S.C. sec. 1197)

EFFECTIVE DATE: This section became effective January 22, 1973.

§ 1631.33 Carpets and rugs with fire-retardant treatment.

(a) For the purposes of this section the following definitions apply:

(1) "Small carpet" and "small rug" means "small carpet" and "small rug" as defined in § 1631.1(c).

(2) "Fire-retardant treatment" means "fire-retardant treatment" as defined in the Standard in Subpart A of this Part.

(b) If a carpet or rug or small carpet or rug is manufactured, imported, or otherwise marketed or handled which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, the letter "T" shall be set forth legibly and conspicuously, and shall appear at all times, on each label and/or invoice relating thereto pursuant to the requirements of the Textile Fiber Products Indentification Act, 15 U.S.C. section 70, et seq., and the rules and regulations thereunder, whether or not such letter "T" appears elsewhere on said product. Samples, pieces, rolls, or squares used to promote or effect the sale of such carpet or rug are subject to the aforementioned requirements. As provided in the applicable portions of the aforesaid Act and the rules and regulations thereunder, where a carpet or rug or a small carpet or rug which has had a fire-retardant treatment or is made of fibers which have had a fire-retardant treatment, is sold to an ultimate consumer and was either custom made or commercially installed for such consumer, the labeling required by this section shall not apply with respect to the carpet or rug if an invoice or other paper relating thereto, containing the letter "T", legibly and conspicuously written, is delivered to the consumer in due course of business.

(c) No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any carpet or rug or small carpet or rug, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

EFFECTIVE DATE: This section became effective January 22, 1973.

§ 1631.34 Small carpets and rugs not meeting acceptance criterion.

(a) If any small carpet or rug as defined in the Standard for the Surface Flammability of Small Carpets and Rugs (pill test) FF 2–70, is manufactured, imported, or otherwise marketed or handled and does not meet the acceptance criterion of such standard, it shall, prior to its introduction into commerce, be legibly and conspicuously labeled with a permanent label which sets forth the following statement:

"FLAMMABLE (FAILS U.S. DEPARTMENT OF COMMERCE STANDARD FF 2–70); SHOULD NOT BE USED NEAR SOURCES OF IGNITION."

The required cautionary statement may be set out on or affixed to the small carpet or rug on the same label as the fiber content label required to be affixed under the Textile Fiber Products Identification Act, if said label is permanent, or said statement shall be set forth on a separate permanent label on or affixed to the small carpet or rug in immediate proximity to the said required label under the Textile Fiber Products Identification Act. A label on the front of a small carpet or rug shall be considered to be in immediate proximity to a label on the back, provided they are directly opposite each other and are in immediate proximity to the edge of the small carpet or rug.

(b) Such cautionary statements shall also appear in a conspicuous manner in all advertisements in which said small carpets or rugs are being offered for sale through direct mail, telephone solicitation, or under any other circumstances where the consumer, in the ordinary course of dealing, will not have an opportunity to inspect the label before receiving the merchandise. The phrase "Flammable—Read The Label" shall conspicuously appear in all other advertisements of small carpets or rugs which do not meet the acceptance criterion of the standard.

(c) The information required by this section shall be set forth separately from any other information, representations, or disclosures appearing on the same label or elsewhere on the small carpet or rug, and any such other information, representations, or disclosures shall in no way interfere with, minimize, detract from, or conflict with the information required by this section.

(d) Samples, swatches, or specimens used to promote or effect the sale of small carpets or rugs shall be labeled with the information required by this section, in addition to the label required to be affixed to the small carpets or rugs.

(e) Where small carpets or rugs are marketed at retail in packages, and the labeling information required by this section is not readily visible to prospective purchasers, the packages must also be prominently, conspicuously, and legibly labeled with the information required by this section.

(f) No person, other than the ultimate consumer, shall remove, mutilate, or cause or participate in the removal or mutilation of any affixed labeling information required by this section.

(g) No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market

or handle any small carpet or rug, including samples, swatches, or specimens used to promote or effect the sale thereof, which is not in compliance with this section.

Subpart C—Washing Procedures

AUTHORITY: Secs. 4, 5, 67 Stat. 112, as amended, 81 Stat. 569-70; 15 U.S.C. 1193, 1194.

§ 1631.61 Hide carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70) at § 1631.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On February 10, 1972 (37 FR 3010) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 2-70 for testing the flammability of shearling and hide rugs that (1) consist of natural wool or hair attached to the hide with no synthetic fibers and (2) have been treated with a fire-retardant finish. The notice of approval was corrected on March 17, 1972 (37 FR 5676). This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any hide carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH OR DRY CLEAN

This rug has been treated with a flame retardant. To keep rug attractive and clean use the following methods:

To eliminate loose dirt or dust, vacuum or shake pelt outdoors.

For spot cleaning, use water dampened cloth and rub lightly in one direction.

DO NOT USE DETERGENTS OR OTHER STAIN REMOVERS

(d) The alternative procedure is as follows: The test specimens shall be cut to size 9" x 9" before the procedure is initiated.

(1) Shake specimen vigorously to remove any loose fibers, dust and possible accumulated debris.

(2) Place specimen on a solid flat surface and anchor or hold firmly while conducting the test.

(3) Select an operating applicator consisting of a rod at least 2" in diameter and 9" long composed of nonabsorbent material such as glass or plastic.

(4) Select sufficient cloth to form at least five layers when wrapped around the operating applicator. The cloth shall be of the type known as "Crockmeter Test Cloth" as specified in Note 8.3 of AATCC Test Method 8-1969.

(5) Immerse cloth in water (100° F.) until thoroughly wetted.

(6) Manually wring out the cloth to remove all excess water and wrap around the operating applicator.

(7) Immediately, with light pressure, stroke entire surface of specimen with the wrapped operating applicator in one direction only along the natural "lay" of the hair structure for ten complete strokes.

(8) Place test specimen in a circulating drying oven maintained at 212° F. until dry.

(9) Repeat the above procedure 10 times using a fresh or clean cloth each time.

(10) After 10 successive cycles of washing and drying the dried specimens shall be subjected to the testing procedures (pill test) as outlined in FF 2-70.

(e) This washing procedure and labeling provision are subject to revision or revocation should it be determined that such procedure is inadequate to fully protect the public

§ 1631.62 Wool flokati carpets and rugs—alternative washing procedure.

(a) The Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70 at § 1631.4(b)(1)(ii) provides that if a carpet or rug has had a fire-retardant treatment, or is made of fibers which have had a fire-retardant treatment, the sample or oversized specimens thereof selected for testing under the standard shall be washed prior to the cutting of test specimens either 10 times under the washing and drying procedure prescribed in Method 124-1967 of the American Association of Textile Chemists and Colorists or such number of times under such other washing and drying procedure as shall previously have been found to be equivalent by the Consumer Product Safety Commission. Alternatively the selected sample or oversized specimens thereof may be washed, dry-cleaned, or shampooed 10 times, prior to the cutting of test specimens, in such manner as the manufacturer or other interested party has previously established to the satisfaction of the Consumer Product Safety Commission is normally used for that type of carpet or rug in service.

(b) On September 7, 1972 (37 FR 18122) the Federal Trade Commission published in the FEDERAL REGISTER a notice of approval of an alternative washing procedure under FF 2-70 for testing the flammability of wool flokati carpets and rugs. This approval is continued in effect by the Consumer Product Safety Commission pursuant to section 30(e) of the Consumer Product Safety Act (15 U.S.C. 2079(e)).

(c) Any wool flokati carpet or rug for which such alternative procedure is utilized must be labeled with a conspicuous, legible and permanent label containing the following statement:

DO NOT WASH IN HOME MACHINE OR DRY CLEAN—AVOID RUBBING OR BRUSHING WHILE DAMP

This Flokati carpet or rug has been treated with a flame retardant. To maintain this flame retardant and to keep the carpet attractive and clean, use the following methods.

1. Vacuum (using suction head without rotating brush) or shake the rug (depending upon size) to remove loose dirt.

2. Home laundering: Place in bath tub or other suitable receptacle in solution of home detergent and lukewarm water (approximately 105° F.). Immerse face down and gently knead back of rug to remove soil. Rinse in lukewarm water (approximately 105° F.) until detergent is removed. Rug may then be rinsed again in cool water to improve appearance of face if desired. Line dry. Shake while damp to restore surface and fluff up fibers.

3. Spot cleaning: Remove greasy stains with a household grease remover. Remove soluble stains with lukewarm water (approximately 105° F.) and detergent by immersing spot in a pan and kneading the back of rug. Rinse thoroughly in lukewarm water. Line or floor dry. Shake while damp to restore surface and fluff up fibers.

4. Commercial cleaning: Use Roll-A-Jet equipment (or equivalent) with water not exceeding 105° F. Avoid use of excessive pressure or reciprocating brushes. Drying temperatures should not exceed 200° F.

(d) The alternative procedure is as follows:

(1) Cut test specimens to an oversize 12" x 12" before the procedure is initiated.

(2) Vacuum specimens or shake vigorously to remove any loose fibers, dust or possible accumulated debris.

(3) Place individual specimen face down in a shallow pan which has been filled to a depth of 2" with a wash solution of 1½ grams of AATCC (American Association of Textile Chemists and Colorists) Standard Detergent as specified in AATCC Method 12—1967 (or equivalent) per liter of water preheated to 105° F. Knead the back of the specimen with hand for 1 minute. Water level and temperature should be maintained for each specimen.

(4) Thoroughly rinse specimen face down with warm water at 105° F. for 1 minute under a faucet with strong pressure.

(5) Remove excess liquor by use of a wringer, hydroextractor or gentle hand squeezing and dry in circulating air oven at 200° F. until dry.

(6) Repeat the above procedure 10 times using fresh detergent and fresh water for each set of eight specimens.

(7) Subject the dry specimens to the test procedures in FF 2-70.

(e) This washing procedure and labeling provisions are subject to revocation should it be determined that such procedure is inadequate to fully protect the public.

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES (AND MATTRESS PADS) (FF4–72)

Subpart A—The Standard

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AUTHORITY: Sec. 4, 67 Stat. 112, as amended, 81 Stat. 569–70; 15 U.S.C. 1193, unless otherwise noted.

Subpart A—The Standard

EFFECTIVE DATE: This standard became effective June 22, 1973. It was originally published as a notice on June 8, 1973 (38 FR 15095).

§ 1632.1 Definitions.

In addition to the definitions given in section 2 of the Flammable Fabrics Act as amended (sec. 1, 81 Stat. 568; 15 U.S.C. 1191) and the procedures under that act for setting standards (16 CFR Part 1607), the following definitions apply for the purpose of this standard.

(a) "Mattress" means a ticking filled with a resilient material used alone or in combination with other products and intended or promoted for sleeping upon. This definition includes, but is not limited to, mattress pads, adult mattresses, youth mattresses, crib mattresses including portable crib mattresses, bunk bed mattresses, convertible sofa bed mattresses, corner group mattresses, daybed mattresses, roll-a-way bed mattresses, high risers, and trundle bed mattresses. This definition excludes sleeping bags, pillows, mattress foundations such as box springs, liquid and gaseous filled tickings such as water beds and air mattresses, upholstered furniture such as chaise lounges, drop-arm love seats, press-back lounges, push-back sofas, sleep lounges, sofa beds (including jackknife sofa beds), sofa lounges (including glide-outs), studio couches, and studio divans (including twin studio divans and studio beds), and juvenile product pads such as car bed pads, carriage pads, basket pads, infant carrier and lounge pads, dressing table pads, stroller pads, crib bumpers, and playpen pads. See § 1632.6, Glossary of terms, for definition of the above.

(b) "Ticking" means the outermost layer of fabric or related material that encloses the mattress core and upholstery materials.

(c) "Core" means the main support system that may be present in a mattress, such as springs, foam, or hair block.

(d) "Upholstery material" means all material, either loose or attached, between the ticking or between the ticking and the core of the mattress, if a core is present.

(e) "Tape edge" (edge) means the seam or border edge of a mattress.

(f) "Quilted" means stitched through the ticking and one or more layers of upholstery material.

(g) "Tufted" means buttoned or laced through the ticking and upholstery material and/or core.

(h) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress size. If it has been shown as a result of prototype qualification testing that a material has not influenced the ignition resistance of the mattress prototype, substitution of another material for such material shall not be deemed a difference in materials for purposes of prototype definition. If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a dimensional or other change in that material shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such dimensional or other change will not reduce the ignition resistance of the mattress prototype.

(i) "Mattress type" means mattresses sharing a method of assembly, such as tufted, multineedle continuous quilt, deep panel quilt, and smooth top, and all materials affecting cigarette ignition, but excluding differences in mattress size. More than one mattress prototype may be included in a single mattress type, provided each prototype has the same method of assembly.

(j) "Production unit" (unit) means a quantity of mattresses of one mattress type. This quantity is predetermined by the mattress manufacturer subject to the maximum number specified in the applicable parts of § 1632.4(b) *Specimen and Sampling.* No mattress completed while other mattresses of the same type are in production shall be excluded from the production unit to which such other mattresses are assigned.

(k) "Surface" means one side of a mattress which is intended for sleeping upon and which can be tested.

§ 1632.2 Scope and application.

(a) This standard provides a test method to determine the ignition resistance of a mattress when exposed to a lighted cigarette.

(b) All mattresses, as defined in § 1632.1(a), are subject to the requirements of this standard.

(c) Mattresses which are subject to the coverage of the Motor Vehicle Safety Standard, No. 302, subject: "Flammability of Interior Materials—Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses" (36 FR 290), issued by the National Highway Traffic Safety Administration, are excluded from coverage under this standard, unless also intended or promoted for uses included in § 1632.1(a).

(d) One of a kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission.

§ 1632.3 General requirements.

(a) *Summary of test method.* The method involves the exposure of the mattress surface to lighted cigarettes as the standard igniting source in a draft-protected environment and the measurement of the ignition resistance of the mattress. These exposures include smooth, tape edge, and quilted or tufted locations, if they exist on the mattress surface. Two-sheet tests are also conducted on similar surface locations. In the latter test, the burning cigarettes are placed between the sheets.

(b) *Test criterion.* Testing the mattress surface in accordance with the testing procedure set forth in § 1632.4 *test procedure,* individual cigarette test locations pass the test if the char length on the mattress surface is not more than 5.1 cm (2 in) in any direction from the nearest point of the cigarette. In the interest of safety, the test operator should discontinue the test and record a failure before reaching the 2 in. char length if, in his opinion, an obvious ignition has occurred.

§ 1632.4 Test procedure.

(a) *Apparatus.*—(1) *Testroom.* The testroom shall be large enough to accommodate a full-scale mattress in a horizontal position and to allow for free movement of personnel and air around the test mattress. The room shall be equipped with a support system (platform, bench, etc.) upon which a mattress may be placed flat in a horizontal position at a reasonable height for making observations. For thin, flexible mattresses and mattress pads, the top surface of the support system shall be nonmetallic. The test area shall be draft-protected and equipped with a suitable system for exhausting smoke and/or noxious gases produced by testing. The testroom atmospheric conditions shall be greater than 18° C (65° F) and at less than 55 percent relative humidity, except for production testing.

(2) *Ignition source.* The ignition source shall be cigarettes without filter tips made from natural tobacco, 85±2 mm long with a tobacco packing density of 0.270±0.020 g/cm³ and a total weight of 1.1±0.1 gm.

(3) *Fire extinguisher.* A pressurized water fire extinguisher, or other suitable fire extinguishing equipment, shall be immediately available.

(4) *Water bottle.* A water bottle fitted with a spray nozzle shall be used to extinguish the ignited portions of the mattress.

(5) *Scale.* A linear scale graduated in millimeters, 0.1 inch, or 1/16-inch divisions shall be used to measure char length.

(6) *Other apparatus.* In addition to the above, a thermometer, a relative humidity measuring instrument, a knife or scissors, and tongs are required to carry out the testing.

(b) *Specimen and sampling.*—(1) *General.* The test criterion of section 1632.3(b) shall be used in conjunction with the following mattress sampling plan, or any other approved by the Consumer Product Safety Commission that provides at least the equivalent level of fire safety to the consumer (see Subpart B of this Part). Alternate sampling plans submitted for approval shall have operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the following sampling plan in the region of the latter's operating characteristic curves that lies between 5 and 95 percent acceptance probability. If such alternate sampling plan involves testing of components of mattresses or materials used in mattresses, its submittal shall be supported by clear evidence of the necessary correlation of the results of such testing with those results from testing as prescribed hereunder.

(2) *Mattress sampling.* The basic mattress sampling plan is made up of two parts: (i) Prototype qualification and (ii) production testing. In addition, a batch sampling plan is given which may be used for small production quantities, when shipping requirements prohibit the use of the basic plan, or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 500 mattresses of a mattress type or the quantity produced in 3 consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 3 consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the unit came from a single manufacturing lot of such material or 50 consecutive production units, at least 20,000 mattresses, have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B).

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean (*a*) with respect to a company having one manufacturing facility, that company, (*b*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects, or (*c*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*a*) or (*b*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer", such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of the preceding paragraph or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*5*) Each mattress protoype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (e.g., "twin") for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* From each unit, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses to provide four additional surfaces for test. Test each of the four additional surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on the four additional surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the individual cigarette test locations on the four additional surfaces fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan. In this case, the production quantity for reduced sampling may be increased to up to two units, still not to exceed the production of 3 consecutive calendar months.

(*ii*) From this production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept this production quantity. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject this production quantity. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept this production quantity.

(*iii*) Rejection shall include all mattresses in the production quantity under test. Rejection also results in the loss of prototype qualification for all prototypes included in the production quantity under test. The loss of prototype qualification applies only to the company or manufacturing facility that produced the rejected unit.

(ii) *Batch sampling plan.* (A) *General* (*1*) For the batch sampling plan, the

term "manufacturer" shall mean each manufacturing facility.

(2) A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(B) *Batch unit qualification and acceptance* (*1*) Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) *Testing*. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit.

(2) After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(3) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification or unit acceptance of any other production unit.

(3) *Disposition of rejected units*. Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in § 1632.1(a) except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in § 1632.4(b)(2)(i) *Basic Sampling Plan*.

(4) *Records*. Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with rules and regulations established by the Consumer Product Safety Commission.

(5) *Preparation of mattress samples*. The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection*. The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 170–200 threads per square inch and fabric weight of 115±14 gm/m² (3.4±0.4 oz/yd²), or of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation*. The sheets shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes*. Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans*. Sampling plans for use in market testing of items covered by this standard may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, those production units represented by tested items which fail such plans will, in fact, fail this standard. Production units found to be noncomplying under these provisions shall be deemed not to conform to this standard. The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their enactment.

(10) *Postponement of production testing*. Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by CPSC, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress which meets all other requirements of the standard.

(c) *Conditioning*.—(1) *Prototype and batch*. The mattresses, washed sheets, and cigarettes shall be conditioned in air at a temperature greater than 18° C (65° F) and a relative humidity less than 55 percent for at least 48 hours prior to test. The mattresses, washed sheets, and cigarettes shall be removed from any packaging and supported in a suitable manner to permit free movement of air around them during conditioning. The mattress meets this conditioning requirement if the mattress and/or all its component materials, except the metallic core, have been exposed only to the above temperature and humidity conditions for at least 48 hours prior to testing the mattress.

(2) *Production*. Mattresses to be tested according to § 1632.4(b)(2)(i)(B) *Production testing* shall be exempt from conditioning as specified in § 1632.4(c)(1). However, the mattresses shall not be exposed to any environmental conditions which promote resistance to cigarette ignition. Sheets and cigarettes in their normally used condition (dry) shall be used.

(d) *Testing*.—(1) *General*. Mattress specimens selected for testing in prototype and batch sampling shall be tested in a testroom with atmospheric conditions of a temperature greater than 18° C (65° F) and a relative humidity less than 55 percent. If the test is not performed in the conditioning room, the mattress shall be tested within 1 hour after removal from the conditioning room.

(i) Light and place one cigarette at a time on the mattress surface. (If previous experience with the same type of mattress has indicated that ignition is not likely, the number of cigarettes which may be lighted and placed on the mattress at one time is left to the test operator's judgment. The number of cigarettes must be carefully considered because a smoldering or burning mattress is extremely hazardous and difficult to extinguish.) If more than one cigarette is burning at one time, the cigarettes must be positioned no less than 6 inches apart on the mattress surface. Each cigarette used as an ignition source shall be well lighted but not burned more than 4 mm (0.16 in) when placed on the mattress. (Fire extinguishing equipment must be readily available at all times.)

(ii) If a cigarette extinguishes before burning its full length, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location on the mattress surface until either (a) the number of cigarettes specified in § 1632.4(d)(1)(iii) have burned their full lengths, (b) the number of cigarettes specified has extinguished before burning their full lengths, or (c) the number of cigarettes specified have resulted in failures according to § 1632.3(b) *Test criterion*.

(iii) At least 18 cigarettes shall be burned on each mattress test surface, 9 in the bare mattress tests and 9 in the 2-sheet tests. If three or more mattress surface locations (smooth surface, tape edge, quilted, or tufted areas) exists in the particular mattress surface under test, three cigarettes shall be burned on each different surface location. If only two mattress surface locations exist in the particular mattress surface under test (tape edge and smooth surface), four cigarettes shall be burned on the smooth surface and five cigarettes shall be burned on the tape edge.

(2) *Bare mattress tests*.—(i) *Smooth surfaces*. Each burning cigarette shall be placed directly on a smooth surface location on the test surface on the half reserved for bare mattress tests. The cigarettes should burn their full lengths on a smooth surface without burning across a tuft or stitching of a quilted area. However, if this is not possible because of mattress design, then the cigarettes shall be positioned on the mattress in a manner which will allow as much of the butt ends as possible to burn on smooth surfaces. Report results for each cigarette as pass or fail as defined in the test criterion.

CAUTION: Even under the most carefully observed conditions, smoldering combustion can progress to the point where it cannot be readily extinguished. It is imperative that a test be discontinued as soon as ignition has definitely occurred. Immediately wet the exposed area with a water spray (from water bottle), cut around the burning material with a knife or scissors and pull the material out of the mattress with tongs. Make sure that all charred or burned material is removed. Ventilate the room.

(ii) *Tape edge*. Each burning cigarette shall be placed in the depression between the mattress top surface and the tape edge, parallel to the tape edge on the half of the test surface reserved for bare mattress tests. If there is no depression at the edge, support the cigarettes in place along the edge and parallel to the edge with straight pins. Three straight pins may be inserted through

the edge at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(iii) *Quilted location.* If quilting exists on the test surface, each burning cigarette shall be placed on quilted locations of the test surface. The cigarettes shall be positioned directly over the thread in the depression created by the quilting process on the half of the test surface reserved for bare mattress tests. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted location.* If tufting exists on the test surface, each burning cigarette shall be placed on tufted locations of the test surface. The cigarettes shall be positioned so that they burn down into the depression caused by the tufts and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts on the half of the test surface reserved for bare mattress tests. Report results for each cigarette as pass or fail as defined in the test criterion.

(3) *Two-sheet tests.* Spread a section of sheet smoothly over the mattress surface and tuck under the mattress on the second half of the test surface, which has been reserved for the two-sheet test. Care must be taken that hems or any other portion of the sheet which is more than one fabric thickness, is neither directly under nor directly over the test cigarette in the two-sheet test.

(i) *Smooth surfaces.* Each burning cigarette shall be placed directly on the sheet covered mattress in a smooth surface location as defined in the bare mattress test. Immediately cover the first sheet and the burning cigarettes loosely with a second, or top sheet (see fig. 2). Do not raise or lift the top sheet during testing unless obvious ignition has occurred or until the cigarette has burned out. (The extinguishment of the cigarette may be determined by holding the hand near the surface of the top sheet over the test location. If neither heat is felt nor smoke observed, the cigarette has burned out.) If ignition occurs, immediately remove the sheets and cigarette and follow the cautionary procedures outlined in the bare mattress test. Report results for each cigarette as pass or fail as defined in the test criterion.

(ii) *Tape edge.* (A) Each burning cigarette shall be placed in the depression between the top surface and the tape edge on top of the sheet, and immediately covered with a second sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument.

(B) In most cases, the cigarettes will remain in place throughout the test; however, if the cigarettes show a marked tendency to roll off the tape edge location, they may be supported with straight pins. Three straight pins may be inserted through the bottom sheet and tape at a 45° angle such that one pin supports the cigarette at the burning end, one at the center, and one at the butt. The heads of the pins must be below the upper surface of the cigarette (see fig. 2). Report results for each cigarette as pass or fail as defined in the test criterion.

(iii) *Quilted locations.* If quilting exists on the test surface, each burning cigarette shall be placed in a depression caused by quilting, directly over the thread and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. If the quilt design is such that the cigarettes cannot burn their full lengths over the thread, then the cigarettes shall be positioned in a manner which will allow as much of the butt ends as possible to burn on the thread. Report results for each cigarette as pass or fail as defined in the test criterion.

(iv) *Tufted locations.* If tufting exists on the test surface, each burning cigarette shall be placed in the depression caused by tufting, directly over the tuft and on the bottom sheet, and immediately covered with the top sheet. It is important that the air space be eliminated, as much as possible, between the mattress and the bottom sheet at the test location before testing. Depress the bottom sheet into the depression using a thin rod or other suitable instrument. The cigarettes shall be positioned so that they burn down into the depression caused by the tuft and so that the butt ends of the cigarettes burn out over the buttons or laces used in the tufts. Report results for each cigarette as pass or fail as defined in the test criterion.

§ 1632.5 Mattress pads.

(a) *Testing.* Mattress pads shall be tested in the same manner as mattresses according to § 1632.4 *Test procedure* except for laundering.

(b) *Laundering.* (1) Mattress pads which have had a chemical fire retardant treatment or contain any chemically fire retardant treated components, shall be tested in accordance with § 1632.4 *Test procedure* in the condition in which they are intended to be sold, and after they have been washed and dried 10 times according to the procedure prescribed in method 124–1969 of the American Association of Textile Chemists and Colorists washing procedure 6.2 (III), with a water temperature of 60° ±2.8° C (140° ±5° F), and drying procedure 6.3.2(B). Maximum load shall be 3.46 kg (8 lb) and may consist of any combination of test items and dummy pieces. Alternately, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission.

(2) Such laundering is not required of mattress pads which are not intended to be laundered, as determined by the Consumer Product Safety Commission.

(3) Mattress pads which are not susceptible to being laundered and are labeled "dryclean only" shall be drycleaned by a procedure which has previously been found acceptable by the Consumer Product Safety Commission.

(c) *Labeling.* (1) *Treatment label.* If a mattress pad has had a chemical fire retardant treatment or contains any fire retardant treated components, it shall be labeled with the letter "T" pursuant to rules and regulations established by the Consumer Product Safety Commission.

(2) *Care label.* All mattress pads which have had a chemical fire retardant treatment or contain any fire retardant treated components shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent and otherwise in accordance with rules and regulations established by the Consumer Product Safety Commission.

(3) *Temporary requirement for noncomplying mattresses.* (i) Mattresses which do not comply with all the provisions of this standard and are manufactured during the 6 months following the effective date of this standard shall, prior to introduction into commerce, be prominently and conspicuously labeled with the following statement:

WARNING: This mattress does not meet the Consumer Product Safety Commission Flammability Standard for Mattresses (FF 4–72, as amended). It may be subject to ignition and hazardous smoldering from cigarettes.

(ii) Such label must be affixed to the mattress in such a manner so as to remain on or affixed thereto until its sale or delivery to the ultimate consumer. The label must be displayed on the mattress at the place of retail sale and the statement on the label must be prominently and conspicuously displayed on the invoice or other sales papers that accompany the mattress through commerce from the manufacturer to the final point of sale to a consumer.

(iii) This label must be at least 250 cm^2 (approximately 40 in^2) with no linear dimension less than 12.5 cm (approximately 5 in). The wording of such label shall appear on a contrasting background with the letters in the heading WARNING no less than 1.2 cm (approximately ½ in) in height.

§ 1632.6 Glossary of terms.

(a) *Basket pad.* Cushion for use in an infant basket.

(b) *Box spring.* A bedspring that consists of springs attached to a foundation and enclosed in a cloth covered, upholstered frame.

(c) *Bunk beds.* A tier of beds, usually two or three, in a high frame complete with mattresses (see fig. 3).

(d) *Car bed.* Portable bed used to carry a baby in an automobile.

(e) *Carriage pad.* Cushion to go into a baby carriage.

(f) *Chaise lounge.* An upholstered couch chair or a couch with a chair back. It has a permanent back rest, no arms, and sleeps one (see fig. 3).

(g) *Convertible sofa.* An upholstered sofa that converts into an adult sized bed. Mattress unfolds out and up from under the seat cushioning (see fig. 3).

(h) *Corner groups.* Two twin size bedding sets on frames, usually slipcovered, and abutted to a corner table. They also usually have loose bolsters slipcovered (see fig. 3).

(i) *Crib bumper.* Padded cushion which goes around three or four sides inside a crib to protect the baby. Can also be used in a playpen.

(j) *Daybed.* Daybed has foundation, usually supported by coil or flat springs, mounted between arms on which mattress is placed. It has permanent arms, no backrest, and sleeps one (see fig. 3).

(k) *Dressing table pad.* Pad to cushion a baby on top of a dressing table.

(l) *Drop-arm loveseat.* When side arms are in vertical position, this piece is a loveseat. The adjustable arms can be lowered to one of four positions for a chaise lounge effect or a single sleeper. The vertical back support always remains upright and stationary (see fig. 3).

(m) *High riser.* This is a frame of sofa seating height with two equal size mattresses without a backrest. The frame slides out with the lower bed and rises to form a double or two single beds (see fig. 3).

(n) *Infant carrier and lounge pad.* Pad to cushion a baby in an infant carrier.

(o) *Mattress foundation.* Consists of any surface upon which a mattress is placed to lend it support for use in sleeping upon.

(p) *Mattress pad.* A thin, flat, mat or cushion for use on top of a mattress.

(q) *Pillow.* Cloth bag filled with resilient material such as feathers, down, sponge rubber, urethane, or fiber used as the support for the head of a person.

(r) *Playpen pad.* Cushion used on the bottom of a playpen.

(s) *Portable crib.* Smaller size than a conventional crib. Can usually be converted into a playpen.

(t) *Press-back lounges.* Longer and wider than conventional sofa beds. When the lounge seat is pressed lightly, it levels off to form, with the seat, a flat sleeping surface. The seat slopes, in the sitting position, for added comfort (see fig. 3).

(u) *Push-back sofa.* When you push on the back of the sofa, it becomes a bed. Lift the back and it is a sofa again. Styled in tight or loose cushions (see fig. 3).

(v) *Roll-a-way bed.* Portable bed which has frame which folds in half with the mattress for compact storage.

(w) *Sleep lounge.* Upholstered seating section is mounted on a sturdy frame. May have bolster pillows along the wall as backrests or may have attached headrests (see fig. 3).

(x) *Stroller pad.* Cushion used in a baby stroller.

(y) *Sofa bed.* These are pieces in which the back of the sofa swings down flat with the seat to form the sleeping surface. All upholstered. Some sofa beds have bedding boxes for storage of bedding. There are two types: the one-piece, where the back and seat are upholstered as a unit, supplying an unbroken sleeping surface; and the two-piece, where back and seat are upholstered separately (see fig. 3).

(z) *Sofa lounge—(includes glide-outs).* Upholstered seating section is mounted on springs and in a special frame that permits it to be pulled out for sleeping. Has upholstered backrest bedding box that is hinged. Glideouts are single sleepers with sloping seats and backrests. Seat pulls out from beneath back and evens up to supply level sleeping surface (see fig. 3).

(aa) *Studio couch.* Consists of upholstered seating section on upholstered foundation. Many types convert to twin beds (see fig. 3).

(bb) *Studio divan.* Twin size upholstered seating section with foundation is mounted on metal bed frame. Has no arms or backrest, and sleeps one (see fig. 3).

(cc) *Trundle bed.* A low bed which is rolled under a larger bed. In some lines, the lower bed springs up to form a double or two single beds as in a high riser (see fig. 3).

(dd) *Twin studio divan.* Frames which glide out (but not up) and use seat cushions, in addition to upholstered foundation to sleep two. Has neither arms nor back rest (see fig. 3).

MATTRESS PREPARATION

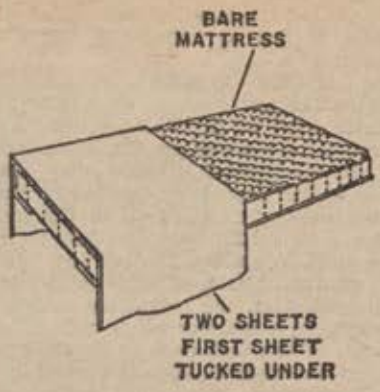


FIGURE 1

CIGARETTE LOCATION

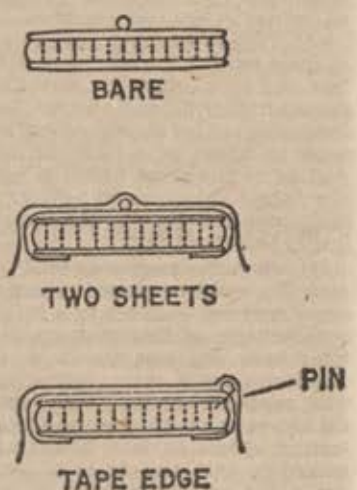


FIGURE 2

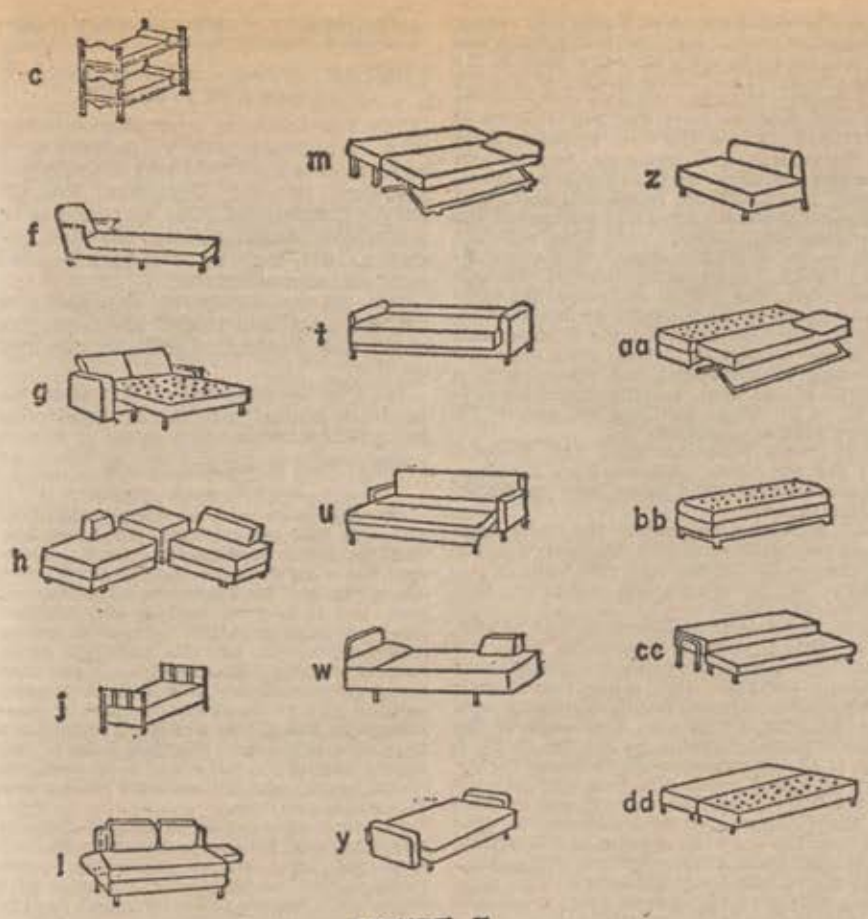


FIGURE 3

Subpart B—Alternate Sampling Plans

§ 1632.11 Alternate sampling plan No. 1, for mattresses and mattress pads, to FF 4–72.

(a) The following alternate sampling plan for mattresses and mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved, effective April 27, 1973, by the Department of Commerce which at that time had authority under the Flammable Fabrics Act to issue flammability standards. The alternate sampling plan may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.11, except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.* (i) The test criterion of § 1632.3(b) shall be used in conjunction with the following alternate mattress sampling plan.

(ii) The use of this alternate sampling plan is applicable to both mattresses and mattress pads. The plan may be used by any mattress or mattress pad manufacturer. Use of this alternate sampling plan in conjunction with any other sampling plan is permitted only if the latter is (a) an approved alternate sampling plan and (b) contains explicit provisions for such use. It is permissible to employ differing options or sampling plans with respect to differing mattress types and/or production units. However, any sampling plan employed with respect to a specific production unit shall be employed in its entirety.

(iii) For the purposes of this alternate sampling plan, "Initial Production Quantity" means a quantity of mattresses equaling or exceeding a specified fraction, k, of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.* The specified fraction, k, shall be one-thirtieth. The quantity limit shall be 450 mattresses for normal sampling and 450 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.* The specified fraction, k, shall be one-twentieth. The quantity limit shall be 550 mattresses for normal sampling and 1,050 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(C) *Option 3.* The specified fraction, k, shall be one-tenth. The quantity limit shall be 1,050 mattresses for normal sampling and 1,700 for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(D) *Option 4.* The specified fraction, k, shall be one-fifth. The quantity limit shall be 7,500 mattresses for normal sampling and 7,500 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.* The basic mattress sampling plan is made up of two parts: (1) Prototype qualification, and (2) production testing. In addition, a batch sampling plan is given which may be used for small production quantities, when shipping requirements prohibit the use of the basic plan, or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling nor more than 500 mattresses of a mattress type in reduced sampling, or the quantity produced in 1½ consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the unit and the preceding or the following unit came from a single manufacturing lot of such material or 50 consecutive production units, at least 20,000 mattresses, have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). In no event shall the unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean: (a) With respect to a company having one manufacturing facility, that company; (b) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; and (c) with respect to a company that is part of a group of companies that normally sell mattresses under a group name, either that group of companies or a portion of that group or (a) or (b) above, as that company elects.

(*2*) Select enough mattress prototypes from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) In addition, if it has been elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough mattress prototypes from its preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b), accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype from that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigar-

ettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated, whether as a result of prototype rejection or of subsequent unit rejection, such qualification shall be conducted in accordance with the requirements applicable to manufacturers and not those applicable to one company or manufacturing facility of a manufacturer.

(5) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the manufacturer is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification, not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all matresses in the production unit are the same as the prototype except for size. No provision for production unit acceptance based on prototype qualification applies if the manufacturer is more than one manufacturing facility or company.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (e.g., "twin") for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* From the initial production quanity, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) *testing.* If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies to the company or manufacturing facility that produced the rejected unit if it was elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, and to the manufacturer otherwise.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress production may be reduced provided that the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan of this alternate sampling plan or that of the standard. The production quantity for reduced sampling under this alternate sampling plan shall consist of one production unit as defined in § 1632.4(b)(2)(i) above.

(*ii*) From the initial production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the unit. If two or more individual cigarette test locations fail the test criterion of the § 1632.3(b), reject the unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses to provide two additional surfaces for test. Test each of the two additional surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b), accept the Unit. If one or more of the individual cigarette test locations on the two additional surfaces fail the test criterion of § 1632.3(b), reject the unit. Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification for all prototypes included in the unit under test. The loss of prototype qualification applies to the company or manufacturing facility that produced the rejected unit if it was elected to include more than one company or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, and to the manufacturer otherwise.

(*ii*) *Batch sampling plan.* (A) *General.* (*1*) For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility.

(*2*) A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(B) *Batch unit qualification and acceptance.* Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) *Testing.* If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b), accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit. After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection. Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification or unit acceptance of any other production unit.

(*3*) *Disposition of rejected units.* Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in §1632.1(a) except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in § 1632.4(b)(2)(i) *Basic sampling plan.*

(*4*) *Records.* Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with rules and regulations established by the Consumer Product Safety Commission.

(*5*) *Preparation of mattress samples.* The mattress surface shall be divided laterally into two sections (see fig. 1), one section for the bare mattress tests and the other for the two-sheet tests.

(*6*) *Sheet selection.* The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic, such as permanent press or flame resistance with 170 to 200 threads per square inch and a fabric weight of 115±14 gm/^{2} (3.4±0 4 oz/yd ^{2}). Size of sheet shall be appropriate for the mattress being tested.

(*7*) *Sheet preparation.* The sheets shall be laundered once before use in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent, and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(*8*) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests.

§ 1632.12 Alternate sampling plan No. 2, for mattress pads, to FF 4–72.

(a) The following alternate sampling plan for mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective August 1, 1973, may be used by any mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.11, except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General*—(i) The test criterion of § 1632.3(b) shall be used in conjunction with this Alternate Sampling Plan No. 2 (ASP No. 2). The use of this ASP No. 2 is restricted to mattress pads, but it may be used by any mattress pad manufacturer. ASP No. 2 may be used in conjunction with ASP No. 4 (§ 1632.13) to FF 4–72 if desired. When ASP No. 4 is so used, the provisions of this ASP No. 2 shall apply with respect to production testing of mattress pads. Use of this ASP No. 2 in conjunction with any other sampling plan is permitted only if the latter (A) is an approved sampling plan and (B) contains explicit provisions for such use.

(ii) It is permissible to employ differing sampling plans with respect to differing mattress pad types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(iii) For purposes of this ASP No. 2, "initial production quantity" means a quantity of mattress pads equalling or exceeding one-sixtieth of the quantity anticipated to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Not withstanding the provisions of § 1632.1(j) and those of § 1632.4(b)(2)(i) *Basic sampling plan* of this ASP No. 2, mattress pads contained in an initial production quantity shall be deemed to be included in the production unit represented by that initial production quantity if (A) the initial production quantity is manufactured during the 30-day period preceding the nominal date of initiation of the production unit, (B) final assembly of mattress pads in the initial production quantity is accomplished on the machine or machines used in final assembly of mattress pads in the production unit, and (C) no mattress pads of the type contained in the production unit are produced on said machines during the period between manufacture of the initial production quantity and the nominal date of initiation of the production unit. Alternatively, mattress pads contained in an initial production quantity shall be deemed to be included in the production unit represented by that initial production quantity if the initial production quantity is manufactured during the 30-day period preceding the nominal date of initiation of the production unit and the manufacturer stipulates that all mattress pads of prototypes represented in the production unit and manufactured between the initial production quantity and the nominal date of initiation of the production unit shall be demed to be rejected if the production unit is rejected. Each prototype to be included in the production unit shall be represented in the initial production quantity.

(2) *Mattress pad sampling.* The basic mattress pad sampling plan is made up of two parts: *Prototype qualification* (§ 1632.4(b)(2)(i)(A)) and *Production testing* (§ 1632.4(b)(2)(i)(B)). In addition, a *Batch sampling plan* (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattress pads of a mattress pad type in normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) nor more than 500 mattress pads of a mattress pad type in reduced sampling (§1632.4(b)(2)(i)(B)(*2*)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all mattress pads in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattress pads) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B).

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(2) Each "manufacturer" shall select enough of each mattress pad prototype from preproduction or current production to provide six surfaces for test (three mattress pads if both sides can be tested or six mattress pads if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress pad prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress pad prototype.

(3) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattress pads from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress pad prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress pad prototype for that company or manufacturing facility.

(4) Mattress pad prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress pad prototype to ignition by cigarettes through mattress pad design, production, or materials selection. When mattress pad prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress pad prototype qualification is repeated as a result of prototype rejection under the provisions of the preceding (*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress pad were a company having one manufacturing facility.

(5) Each mattress pad prototype must be accepted in prototype qualification prior to shipping any mattress pads to customers and prior to producing significant quantities of mattress pads. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattress pads were selected from the successful prototype qualification (not to exceed 500 mattress pads in either case) may be accepted and shipped to customers without further testing if all mattress pads in the production unit are the same as the prototype except for size.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattress pads of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattress pads of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* (*i*) From the initial production quantity, randomly select enough mattress pads to provide eight surfaces for test (four mattress pads if both sides can be tested or eight mattress pads if only one side can be tested). Test each of the eight surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on all surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattress pads from the initial production quantity to provide 16 addditional surfaces for test. Test each of the 16 additional surfaces according to § 1632.4(d). If all the cigarette test locations on the 16 additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the 16 additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattress pads in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress pad production acceptance may be reduced provided that the preceding 15 consecutive production units of mattress pads (at least 500 mattress pads) have all been accepted using the normal sampling plan of this ASP No. 2 (§ 1632.4(b)(2)(i)(B)(*1*)) or that of FF 4–72. The production quantity for reduced sampling under this ASP No. 2 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity, randomly select enough mattress pads to provide eight surfaces for tests. Test each of the eight surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on all surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattress pads in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test. Testing after requalification shall be according to the normal sampling plan (§ 1632.4(b)(2)(i)(B)(*1*)).

(ii) *Batch sampling plan.* For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattress pads or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.* (*1*) Select enough mattress pads from the initial production of the production unit to provide four surfaces for test (two mattress pads if both sides can be tested or four mattress pads if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(2) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress pad to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress pad design, production, or materials selection.

(3) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.* Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattress pads as defined in § 1632.1(a) of FF 4–72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.* Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress pad samples.* The mattress pad surface shall be divided laterally into two sections (see figure 1 of FF 4–72); one section for the bare mattress pad tests and the other for the two-sheet tests.

(6) *Sheet selection.* The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170–200 threads per square inch and a fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress pad being tested.

(7) *Sheet preparation.* The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufactur-

er's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.* (i) Sampling plans for use in market testing of items covered by the standard (FF 4–72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard (FF 4–72).

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4–72).

(iii) The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.* Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress pad that meets all other requirements of the standard (FF 4–72).

§ 1632.13 Alternate sampling plan No. 4, for mattress ticking, to FF4–72.

(a) The following alternate sampling plan for mattress ticking was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective June 19, 1973 may be used by any ticking, mattress or mattress pad manufacturer or any distributor of mattress ticking.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.13 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i)(A) The mattress portion of this alternate sampling plan shall use the test criterion of § 1632.3(b).

(B) This alternate sampling plan may be used in conjunction with alternate sampling plan No. 1 (ASP No. 1) to FF 4–72 (front end) (§ 1632.11) if desired. When ASP No. 1 is used in conjunction with this alternate sampling plan, the provisions of ASP No. 1 shall apply with respect to production testing of mattresses or mattress pads. When this alternate sampling plan is used in conjunction with any other alternate sampling plan, the provisions of this plan shall apply with respect to testing of ticking, mattress prototypes deemed to be qualified by virtue of permitted ticking substitutions, and requirements for requalification by mattress prototype qualification testing procedures.

(C) It is permissible to employ differing sampling plans with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(ii) For the purpose of this alternate sampling plan, the following definitions apply in addition to those in § 1632.1 *Definitions*, of FF4–72:

(A) "Ticking prototype" means a ticking of a specific construction, color, or combination of colors and color pattern, weave pattern design, finish application, fiber content, and weight per unit area. With respect to film-coated fabrics, a prototype means a given method of application, chemical formula, and thickness of application of the film coating.

(B) "Ticking type" means a group of ticking prototypes identical except for color or combination of colors and color pattern, and weave pattern designs.

(C) "Ticking category" means a group of ticking types similar in method of manufacture and, if composed in whole or in part of nonfiber layers or coatings, identical in composition and nominal weight per unit of nonfiber components.

(D) "Ticking specimen" means a 38-by-38-centimeter (15-by-15-inch) section of ticking.

(E) "Ticking sample" means a total of three ticking specimens.

(F) "Ticking production unit" means any quantity of finished ticking of one ticking type up to 23,940 linear meters (25,000 linear yards).

(G) "Fabric piece" (piece) means any continuous, unseamed length of ticking, one or more of which make up a ticking production unit.

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i)(A)) and production testing (§ 1632.4(b)(2)(i)(B)). In addition, a batch sampling plan is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 500 mattresses of a mattress type or the quantity produced in 3 consecutive calendar months, whichever is smaller. This unit size may be increased to the quantity produced in 3 consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing ignition characteristics of all the mattresses in the unit came from a single manufacturing lot of such material or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). The documentation requirements for single ticking category shall be deemed to have been met with respect to ticking if such ticking has met the ticking prototype qualification requirements of § 1632.4(b)(9) and the ticking production testing requirements of § 1632.4(b)(10).

(A) *Prototype qualification.*—(*1*) For prototype qualification, the term "manufacturer" shall mean: (*i*) With respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each manufacturer shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested).

(*3*) Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*4*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*5*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the manufacturer, such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*4*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*6*) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification, or the production unit from which the mattresses were selected for the successful prototype qualification not to exceed 500 mattresses, may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size. A mattress prototype shall be deemed to have been accepted in prototype qualification if another mattress prototype identical except for ticking prototype has been accepted in prototype qualification, both ticking prototypes are of the same ticking category, and both ticking prototypes have met the ticking prototype qualification requirements of § 1632.4(b)(9) or the inventory ticking type qualification requirements of § 1632.4(b)(12), whichever is applicable.

(B) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.*—(*i*) From each unit, randomly select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if

only one side can be tested). Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the unit. If only one individual cigarette test locations fails the test criterion of § 1632.3(b), select enough additional mattresses to provide four additional surfaces for test. Test each of the four additional surfaces according to § 1632.4(d).

(*ii*) If all the cigarette test locations on the four additional surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the unit. If one or more of the individual cigarette test locations on the four additional surfaces fail the test criterion of § 1632.3(b), reject the unit.

(*iii*) Unit rejection shall include all mattresses in the particular unit under test. Unit rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all mattress prototypes included in the unit under test. Requalification of mattress prototypes represented in the sample and contributing one or more cigarette test locations that failed the test criterion shall be accomplished by mattress prototype qualification testing (that is, using six surfaces for each mattress prototype).

(2) *Reduced sampling.*—(*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive units of mattresses, at least 500 mattresses, have all been accepted using the normal sampling plan (§ 1632.4(b)(2)(i)(B)(*1*)). In this case, the production quantity for reduced sampling may be increased to up to two units, still not to exceed the production of 3 consecutive calendar months.

(*ii*) From this production quantity, randomly select enough mattresses to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept this production quantity. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject this production quantity. If only one individual cigarette location fails the test criterion of § 1632.3(b), accept this production quantity.

(*iii*) Rejection shall include all mattresses in the production quantity under test. Rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all mattress prototypes included in the production quantity under test. Requalification of mattress prototypes represented in the sample and contributing one or more cigarette test locations that failed the test criterion shall be accomplished by mattress prototype qualification testing (that is, using six surfaces for each mattress prototype). Testing after requalification shall be according to the normal sampling plan (§ 1632.4(b)(2)(i)(B)(*1*)).

(ii) *Batch sampling plan.*— For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.*—(*1*) Select enough mattresses from the initial production of the unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the unit.

(*2*) After rejection, unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or unit acceptance of any other production unit.

(*3*) *Disposition of rejected units.*—Rejected units shall not be retested, offered for sale, sold, or promoted for use as a mattress as defined in § 1632.1(a) of FF 4–72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(*4*) *Records.*—Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(*5*) *Preparation of mattress samples.*—The mattress surface shall be divided laterally into two sections (see figure 1); one section for the bare mattress tests and the other for the two-sheet tests.

(*6*) *Sheet selection.*—The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and with 170–200 threads per square inch and fabric weight of 155±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(*7*) *Sheet preparation.*—The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(*8*) *Cigarettes.*—Unopened packages of cigarettes shall be selected for each series of tests.

(*9*) *Ticking prototype qualification.*—(*i*) For ticking prototype qualification, the ticking samples shall be selected from finished fabric after its last processing step as a fabric. The ticking samples are restricted to a single prototype.

(*ii*) Select four ticking samples from no fewer than two fabric pieces of a single-ticking production unit. (The ticking production unit may be from pilot production or ongoing production.) Test each ticking specimen according to § 1632.4(b)(14). If the char length at each cigarette test location is less than or equal to 0.5 in, accept the ticking prototype. If the char length at two or more cigarette test locations is greater than 1.0 in or if at any test location the char length is greater than 1.7 in, reject the ticking prototype. If (A) the char length at any cigarette test location is greater than 0.5 in and (B) the char length at each cigarette test location is less than or equal to 1.7 in and (C) the char length at not more than one cigarette test location is greater than 1.0 in, select four additional ticking samples from the same ticking production unit, including at least one ticking sample from each piece (§ 1632.4(b)(ii)(G)) that contained a cigarette test location with a char length exceeding 0.5 in.

(*iii*) Test each of the additional ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all eight ticking samples is less than or equal to 1.0 in, accept the ticking prototype. If the char length at two or more cigarette test locations among all eight ticking samples is greater than 1.0 in reject the ticking prototype. If the char length at any cigarette test location among all eight ticking samples is greater than 1.7 in, reject the ticking prototype. If the char length at only one cigarette test location among all eight ticking samples is greater than 1.0 in and it is less than or equal to 1.7 in, select eight additional ticking samples from the same ticking production unit, including at least one ticking sample from each piece (§ 1632.4(b)(ii)(G)) that contained a cigarette test location with a char length exceeding 0.5 in.

(*iv*) Test each of the additional ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on the eight additional ticking samples is less than or equal to 1.0 in, accept the ticking prototype. If the char length at any cigarette test location on the eight additional ticking samples is greater than 1.0 in, reject the ticking prototype.

(*v*) Ticking prototype qualification (§ 1632.4(b)(9)) may be repeated once without action to improve ignition resistance if rejection of the ticking prototype involved occurred solely as a result of a char length greater than 1.7 in at a single cigarette test location. A determination that this is the case may be made only if ticking prototype qualification testing has been carried forward until all 16 ticking samples have been tested without further cause for ticking prototype rejection. Further repetition of ticking prototype qualification and repetition following ticking prototype rejection under any other circumstances may take place only after the manufacturer has taken action to improve the resistance of the ticking prototype to ignition by cigarettes through ticking design, production, or materials selection.

(*10*) *Ticking production testing.*—For ticking production testing, the ticking samples shall be selected from finished fabric after its last processing step as a fabric.

(*i*) Select one ticking sample from a single production unit. Test each ticking specimen according to § 1632.4(b)(14). If the char length at each cigarette test location is less than or equal to 0.5 in, accept the ticking production unit. If the char length at any cigarette test location is greater than 1.7 in, reject the ticking production unit. If the char length at two or more cigarette test locations is greater than 1.0 in, reject the ticking production unit. If (A) the char length at any cigarette test location is greater than 0.5 in and (B) the char length at each cigarette test location is less than or equal to 1.7 in and (C) the char length at not more than one cigarette test location is greater than 1.0 in, select one additional ticking sample from the same ticking production unit, including at least one ticking specimen from each piece (§ 1632.4(b)(ii)(G) that contained a cigarette test location with a char length exceeding 0.5 in.

(*ii*) Test each of the additional ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on both ticking samples is less than or equal to 1.0 in, accept the ticking production unit. If the char length at two or more cigarette test locations among both ticking samples is greater than 1.0 in, reject the ticking production unit. If the char length at any cigarette test location among both ticking samples is greater than 1.7 in, reject the ticking production unit. If the char length at only one cigarette test location

among both ticking samples is greater than 1.0 in and it is less than or equal to 1.7 in, select two additional ticking samples from the same ticking production unit, including at least one ticking specimen from each piece (§ 1632.4(b)(ii)(G)) that contained a cigarette test location with a char length exceeding 0.5 in, and select the remaining ticking specimens required so as to provide as nearly equal representation of the fabric pieces in the production unit as possible.

(iii) Test each of the additional ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all four ticking samples is less than or equal to 1.0 in., accept the ticking production unit. If the char length at only one cigarette test location among all four ticking samples is greater than 1.0 in. and it is less than or equal to 1.7 in., accept the ticking production unit. If the char length at any cigarette test location on any of the four ticking samples is greater than 1.7 in., reject the ticking production unit. If the char length at two of more cigarette test locations among all four ticking samples is greater than 1.0 in., reject the ticking production unit.

(iv) Ticking production testing may be repeated once without action to improve ignition resistance if rejection of the ticking production unit involved occurred solely as a result of a char length greater than 1.7 in. at a single cigarette test location. A determination that this is the case may be made only if ticking production testing has been carried forward until all four ticking samples have teen tested without further cause for ticking production unit rejection. Further repetition of ticking production testing and repetition following rejection of a ticking production unit under any other circumstances may take place only after the manufacturer has taken action to improve the resistance of the ticking production unit to ignition by cigarettes through further processing, or under the provisions of § 1632.4(b)(11).

(11) *Disposition of rejected ticking production units.*—(i) Any fabric piece that contributed a specimen with a char length exceeding 1.0 in at any cigarette test location shall be removed from the rejected ticking production unit and shall not be eligible for further attempts at acceptance under the standard (FF 4–72) until its resistance to ignition by cigarettes has been improved through further processing.

(ii) The remainder of a rejected ticking production unit may be subdivided into two or more subunits. No fabric piece may be subdivided among such subunits. Such subdivision shall correspond to the time sequence of production of finished fabric pieces or to differences in materials or process steps, such as dye lots, fiber sources, looms, or processing equipment, determined by the manufacturer's tests or analyses to constitute the probable cause of differences in flammability characteristics. If the subdivision corresponds to the time sequence of production of finished fabric pieces, each (removed) fabric piece that contributed a specimen with a char length exceeding 1.0 in at any cigarette test location shall define a boundary of a subunit.

(iii) From each subunit, select sufficient ticking specimens to constitute four ticking samples. These specimens shall be selected so as to provide as nearly equal representation of the fabric pieces in the subunit as possible. Test each of the ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all four ticking samples is less than or equal to 1.0 in, accept the subunit. If the char length at any cigarette test location on all four ticking samples is greater than 1.0 in, reject the subunit.

(iv) The contents of a rejected subunit may be retested only after the manufacturer has taken action to improve the resistance of the subunit to ignition by cigarettes through further processing. Such retesting shall be according to § 1632.4(b)(10), except that any rejection in retesting shall be final.

(12) *Inventory ticking type qualification.*—The provisions of this subparagraph shall be applicable only to ticking in inventory on or before the effective date of the standard (FF 4–72, effective June 7, 1973).

(i) Select a ticking sample from each ticking prototype within the ticking type to be qualified. If fewer than four ticking prototypes within the ticking type to be qualified are in inventory, select a total of 12 ticking specimens, in equal number from each prototype. Test all ticking specimens according to § 1632.4(b)(14). If the char length at each cigarette test location on all ticking specimens is less than or equal to 0.5 in, accept the ticking type. If the char length at any cigarette test location on all ticking specimens is greater than 0.5 in, reject the ticking type.

(ii) Ticking prototypes within a rejected ticking type may be subjected to individual ticking prototype qualification in accordance with § 1632.4(b)(9). If within a rejected ticking type each ticking prototype exhibiting one or more char lengths greater than 0.5 in is subsequently accepted in individual ticking prototype qualification, that ticking type shall be deemed to have been accepted.

(iii) Inventory ticking type qualification (§ 1632.4(b)(12)) shall not be construed as a substitute for ticking prototype qualification (§ 1632.4(b)(9)) or ticking production testing (§ 1632.4(b)(10)) with respect to ticking manufactured after the effective date of the standard (FF 4–72, effective June 7, 1973).

(13) *Ticking conditioning.*—The ticking test specimens and cigarettes shall be conditioned in air at a temperature of no less than 18° C. (65° F.) and a relative humidity less than 55 percent for at least 8 hours prior to the test. The fabric specimens and cigarettes shall be removed from any packaging and supported in a suitable manner to permit free movement of air around them during conditioning.

(14) *Ticking testing.*—(i) The ticking test shall be conducted in a draft-protected room or area under atmospheric conditions as specified in § 1632.4(a)(1) *Test room.* A mounting box (see figure 1), and a template (see figure 2), or other suitable marking device shall be used for testing each specimen. The ignition source shall be the same as specified in § 1632.4(a)(2).

(ii) Place the template, or other suitable device, over the specimen to mark off the area in which the cigarette is to be placed. Mark the ½-in, 1-in, and 1.7-in boundary lines out from the cigarette's outer extremities. If a template is used, a ballpoint pen shall be used to mark the fabric.

(iii) Securely fasten each specimen on the test box. When secured, the material shall be tautly suspended over the open side of the box throughout the test. Tacks, staples, tape, or other convenient and appropriate means may be used to secure the fabric to the test apparatus. (Caution: If the fabric is not sufficiently taut on the box, the cigarettes may roll away from the spot marked off by the template for char length measurements.)

(iv) Light and place one cigarette at a time on the ticking surface. Each cigarette shall be well lighted, but not burned more than 4 mm (0.16 in) when placed on the test specimen. Three cigarettes will be used on each specimen. The largest portion of each color and weave pattern design will be exposed to at least one lighted cigarette.

(v) If a cigarette extinguishes before burning its full length or falls through the fabric being tested, the test must be repeated with a freshly lit cigarette on a different portion of the same type of location until either (A) three cigarettes have burned their full lengths or (B) three cigarettes have extinguished or fallen through before burning their full lengths.

(15) *Records.*—Records of all unit sizes, test results, and the disposition of rejected units shall be maintained by the manufacturer, in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(16) *Compliance marketing sampling plans.*—(i) Sampling plans for use in market testing of items covered by the standard (FF 4–72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard (FF 4–72).

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4–72).

(iii) The Consumer Product Safety Commission will publish such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(17) *Postponement of production testing.*—Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4–72).

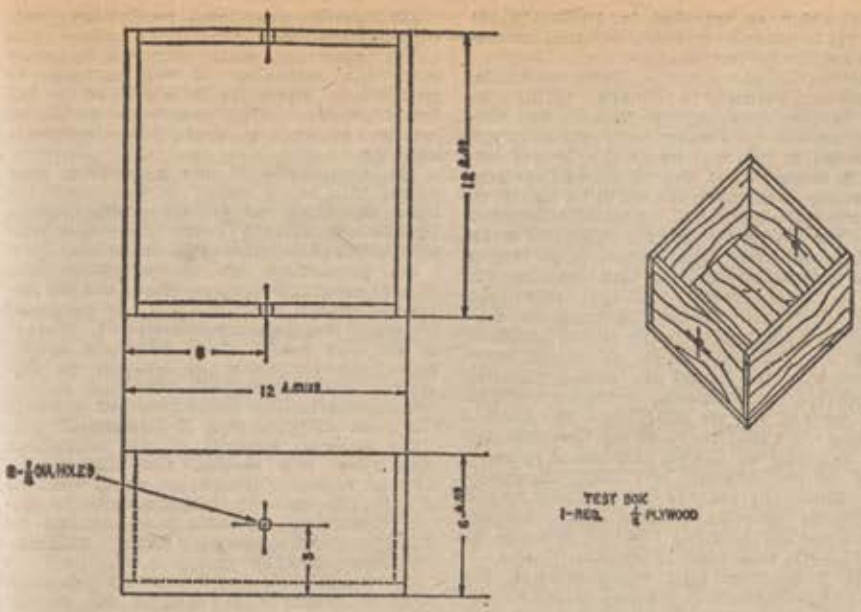


Figure 1

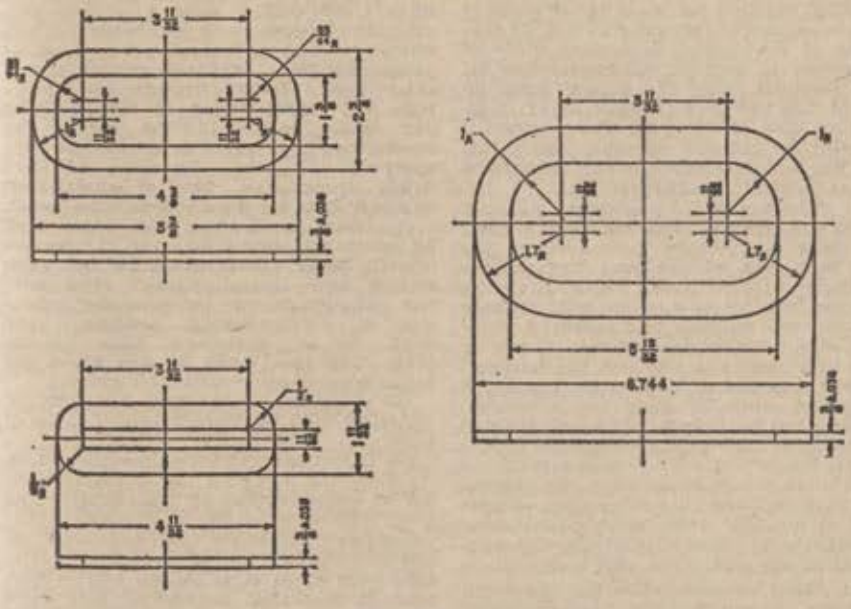


Figure 2

§ 1632.14 **Alternate sampling plan No. 5, for mattresses and mattress pads, to FF 4–72.**

(a) The following alternate sampling plan for mattresses and matress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective November 30, 1973, may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.14 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b).

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i) The test criterion of § 1632.3(b) of FF 4–72 shall be used in conjunction with this Alternate Sampling Plan No. 5 (ASP No. 5). This ASP No. 5 may be used in conjunction with ASP No. 4 to FF 4–72 (mattress ticking) if desired (§ 1632.13). When ASP No. 4 is so used, the provisions of this ASP No. 5 shall apply with respect to production testing of mattresses or mattress pads.

(ii) Differing options or sampling plans may be employed with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety.

(Note: Throughout this ASP No. 5, "mattress(es)" means "mattress(es) or mattress pad(s).")

(iii) For purposes of this ASP No. 5 "initial production quantity" means a quantity of mattresses equalling or exceeding a specified fraction, K, of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.* The specified fraction, K, shall be one-thirtieth. The quantity limit shall be 250 mattresses for normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) and 1,700 mattresses for reduced sampling (§1632.4(b)(2)(i)(B)(*2*)) unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.* The specified fraction, K shall be one-twentieth. The quantity limit shall be 275 mattresses for normal sampling and 2,000 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(C) *Option 3.* The specified fraction, K, shall be one-tenth. The quantity limit shall be 275 mattresses for normal sampling and 4,650 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(D) *Option 4.* The specified fraction, K, shall be one-fifth. The quantity limit shall be 550 mattresses for normal sampling and 7,500 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.* The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i)(A)) and production testing (§ 1632.4(b)(2)(i)(B)). In addition, a batch sampling plan (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.* A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) nor more than 500 mattresses of a mattress type in reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less; *Provided,* That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). In no event shall the production unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.* (*1*) For prototype qualification, the term "manu-

facturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(2) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d) *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(3) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(4) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(5) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification (not to exceed 500 mattresses in either case) may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.* For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.* (*i*) From the initial production quantity (§ 1632.4(b)(1)(iii)), select enough mattresses to provide two surfaces for test (one mattress if both sides can be tested or two mattresses if only one side can be tested). Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses from the initial production quantity to provide six additional surfaces for test. Test each of the six additional surfaces according to § 1632.4(d). If all the cigarette test locations on the six additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the six additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification § 1632.4(b)(2)(i)(A) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.* (*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive production units of mattresses (at least 500 mattresses) have all been accepted using the normal sampling plan of this ASP No. 5 (§ 1632.4(b)(2)(i)(B)(*1*)) or that of FF 4–72. The production quantity for reduced sampling under this ASP No. 5 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity (§ 1632.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test. Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*ii*) *Batch sampling plan.* For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.* (*1*) Select enough mattresses from the initial production of the production unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(2) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(3) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.* Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattresses as defined in § 1632.1(a) of FF 4–72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.* Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress samples.* The mattress surface shall be divided laterally into two sections (see figure 1 of FF 4–72); one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection.* The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170–200 threads per square inch and fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation.* The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.* Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.* (*i*) Sampling plans for use in market testing of items covered by the standard (FF 4–72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard.

(*ii*) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4–72).

(*iii*) The Consumer Product Safety Commission will propose such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.* Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4–72).

§ 1632.15 Alternate sampling plan No. 6, for mattresses and mattress pads, to FF4–72.

(a) The following alternate sampling plan for mattresses and mattress pads was submitted in accordance with § 1632.4(b)(1), and was approved by the Consumer Product Safety Commission. The alternate sampling plan, which became effective September 25, 1973, may be used by any mattress or mattress pad manufacturer.

(b) All provisions of the standard (§§ 1632.1 through 1632.6) are applicable under this § 1632.15 except as specified herein.

(c) For the purposes of this alternate sampling plan, the following substitutes for § 1632.4(b):

§ 1632.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i) The test criterion of § 1632.3(b) of FF 4–72 shall be used in conjunction with this Alternate Sampling Plan No. 6 (ASP No. 6). This ASP No. 6 may be used in conjunction with ASP No. 4 to FF 4–72 (mattress ticking) if desired. (§ 1632.13). When ASP No. 4 is so used, the provisions of this ASP No. 6 shall apply with respect to production testing of mattresses or mattress pads.

(ii) Differing options or sampling plans may be employed with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety. (Note: Throughout this ASP No. 6 (except for (A), (B), and (C) of § 1632.4(b)(1)(iii)), "mattress(es)" means "mattress(es) or mattress pad(s).")

(iii) For purposes of this ASP No. 6, "initial production quantity" means a quantity of mattresses equalling or exceeding a specified fraction of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.*—The specified fraction shall be one-thirtieth. The quantity limit shall be 800 mattresses or 5,500 mattress pads for normal sampling (§ 1632.4(b)(2)(i)(B)(*1*) and 1,700 matresses or 11,000 mattress pads for reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i).

(B) *Option 2.*—The specified fraction shall be one-twentieth. The quantity limit shall be 950 mattresses or 6,600 mattress pads for normal sampling and 2,000 mattresses or 13,000 mattress pads for reduced sampling unless a smaller limit is imposed under the provisions § 1632.4(b)(2)(i).

(C) *Option 3.*—The specified fraction shall be one-tenth. The quantity limit shall be 2,000 mattresses for normal sampling and 4,650 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i). The quantity limit shall be 13,450 mattress pads for normal sampling unless a smaller limit is imposed under the provisions of § 1632.4(b)(2)(i). The quantity limit for mattress pads for reduced sampling shall be that imposed under the provisions of § 1632.4(b)(2)(i).

(D) *Option 4.*—The specified fraction shall be one-fifth. The quantity limit shall be that imposed under the provisions of § 1632.4(b)(2)(i).

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: Prototype qualification (§ 1632.4(b)(2)(i)(A)) and production testing (§ 1632.4(b)(2)(i)(B)). In addition, a batch sampling plan (§ 1632.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 250 mattresses of a mattress type in normal sampling (§ 1632.4(b)(2)(i)(B)(*1*)) nor more than 500 mattresses of a mattress type in reduced sampling (§ 1632.4(b)(2)(i)(B)(*2*)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in § 1632.4(b)(2)(i)(B). In no event shall the production unit size exceed quantity limits imposed by the option selected.

(A) *Prototype qualification.*—(*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to § 1632.4(d). *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of § 1632.3(b) of FF 4–72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of § 1632.3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a result of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of § 1632.4(b)(2)(i)(A)(*3*) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(*5*) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification (not to exceed 500 mattresses in either case) may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commisison. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in § 1632.4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.*—(*i*) From the initial production quantity (§ 1632.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on all four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), select enough additional mattresses from the initial production quantity to provide eight additional surfaces for test. Test each of the eight additional surfaces according to § 1632.4(d). If all the cigarette test locations on the eight additional surfaces meet the test criterion of § 1632.3(b), accept the production unit. If one or more of the individual cigarette test locations on the eight additional surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(*ii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.*—(*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive production units of mattresses (at least 500 mattresses) have all been accepted using the normal sampling plan of this ASP No. 6 (§ 1632.4(b)(2)(i)(B)(*1*)) or that of FF 4–72. The production quantity for reduced sampling under this ASP No. 6 shall consist of one production unit as defined in § 1632.4(b)(2)(i).

(*ii*) From the initial production quantity (§ 1632.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces

for test. Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of § 1632.3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of § 1632.3(b), accept the production unit.

(iii) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (§ 1632.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(ii) *Batch sampling plan.*—For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.*—(*1*) Select enough mattresses from the initial production of the production unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to § 1632.4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of § 1632.3(b) of FF 4–72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of § 1632.3(b), reject the production unit.

(2) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(3) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (§ 1632.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(3) *Disposition of rejected units.*—Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattresses as defined in § 1632.1(a) of FF 4–72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (§ 1632.4(b)(2)(i)).

(4) *Records.*—Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

(5) *Preparation of mattress samples.*—The mattress surface shall be divided laterally into two sections (see figure 1 of FF 4–72); one section for the bare mattress tests and the other for the two-sheet tests.

(6) *Sheet selection.*—The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170–200 threads per square inch and fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(7) *Sheet preparation.*—The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(8) *Cigarettes.*—Unopened packages of cigarettes shall be selected for each series of tests.

(9) *Compliance marketing sampling plans.*—(i) Sampling plans for use in market testing of items covered by the standard (FF 4–72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard.

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4–72).

(iii) The Consumer Product Safety Commission will propose such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(10) *Postponement of production testing.*—Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4–72).

Subpart C—Rules and Regulations

AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570; 15 U.S.C. 1194.

§ 1632.31 Mattresses—labeling, recordkeeping requirements, and guaranties.

(a) *Definitions.* For the purposes of this section, the following definitions apply:

(1) "Standard for the Flammability of Mattresses" or "Standard" means the Standard for the Flammability of Mattresses (FF 4–72) promulgated by the Secretary of Commerce and published in the FEDERAL REGISTER of June 7, 1972 (37 FR 11362), as amended and reissued by the Consumer Product Safety Commission in a notice dated June 1, 1973, and published in the FEDERAL REGISTER of June 8, 1973 (38 FR 15095, Subpart A of this Part), which Standard as amended became effective June 22, 1973.

(2) The definition of terms set forth in the Standard shall also apply to this section. (It should be noted that the definition of "mattress" in the Standard includes, among other things, mattress pads.)

(b) *Labeling.* (1) All mattress pads which have had a chemical fire retardant treatment or contain any fire retardant treated components shall be labeled with precautionary instructions to protect the pads from agents or treatments which are known to cause deterioration of their flame resistance. Such labels shall be permanent, prominent, conspicuous, and legible.

(2) If a mattress pad has had a chemical fire retardant treatment or contains any fire retardant treated components, it shall be prominently, conspicuously, and legibly labeled with the letter "T."

(3) Every manufacturer, importer, or other person initially introducing mattresses subject to the Standard into commerce shall assign to each mattress a unit identification (number, letter, or date, or combination thereof) sufficient to identify and relate to the production unit of which the mattress is a part. Such unit identification shall be designated in such a way as to indicate that it is a production unit identification under the Standard for the Flammability of Mattresses. Each mattress subject to the Standard shall bear a permanent, accessible, and legible label containing the appropriate production unit identification relating to such mattress.

(4) The information required on labels by this section shall be set forth separately from any other information appearing on such label. Other information, representations, or disclosures, appearing on labels required by this section or elsewhere on the item, shall not interfere with, minimize, detract from, or conflict with the required information.

(5) The warning label required by § 1632.5(c)(3) for noncomplying mattresses manufactured during the 6 months following the effective date of the Standard shall be separate and apart from any other label on the mattress and shall not have any other information, representation, or disclosure thereon.

(6) No person, other than the ultimate consumer, shall remove or mutilate, or cause or participate in the removal or mutilation of, any label required by this section to be affixed to any item.

(c) *Records—manufacturers, importers, or persons initially introducing items into commerce.*—(1) *General.* Every manufacturer, importer, or other person initially introducing into commerce mattresses subject to the Standard, irrespective of whether guarantees are issued relative thereto, shall maintain written records as hereinafter specified. The records required must establish a line of continuity through the process of manufacture of each mattress and from the specific finished item to the manufacturing records and shall show with respect to such items:

(i) Details, description, and identification of any sampling plan or plans engaged in pursuant to the requirements of the Standard. Such records must be sufficient to demonstrate compliance with such sampling plan or plans and must relate the sampling plan or plans to the actual mattresses produced, marketed, or handled. This subdivision is not limited by other provisions of this paragraph.

(ii) Production units of all mattresses marketed or handled. The records must relate to an appropriate production unit identification on or affixed to the mattress itself in accordance with paragraph (b)(3) of this section, and the production unit identification must relate to the production unit.

(iii) Test results and details of all tests performed, both prototype and production, including cigarette locations and whether each cigarette location passed or failed, details of the sampling procedure or procedures employed, name and signature of person conducting tests, date of tests, and all other records necessary to demonstrate compliance with the test procedure or procedures and sam-

pling plan or plans specified by the Standard or authorized alternate sampling plan or plans. These records shall include a certification by the person overseeing the testing as to the test results and that the test was carried out in accordance with the Standard. (For illustrative forms, see note at the end of this section.)

(iv) Disposition of all failing or rejected mattresses. Such records must demonstrate that the items were retested and reworked in accordance with the Standard prior to sale or distribution and that such retested or reworked mattresses comply with the Standard, or must otherwise show the disposition of such items.

(v) Manufacturing specifications relating the same to prototype and production testing and to the production units to which applicable.

(vi) Test data or other information relied on as a basis for inclusion of different components as a single production unit where permitted by the Standard.

(vii) Photographic evidence of each test result in the form of a photograph (color or black and white) of the bare mattress surface after testing, with a clear designation thereon as to which part of the mattress was sheeted and which part was tested bare.

(viii) Date and quantity of each sale or delivery of mattresses subject to the Standard and the name and address of the purchaser or recipient relating such sale to the production unit or other identification.

(ix) Details of any approved alternate laundering procedure used in laundering mattress pads required by the Standard to be laundered during testing.

(x) Identification, composition, and details of application of any flame retardant treatments employed relative to mattress pads or mattress pad components. All prototype and production records shall relate to such information.

(2) *Prototype testing.* In addition to the records specified in paragraph (c)(1) of this section, records shall be maintained which shall show with respect to prototype testing required by the Standard:

(i) Mattress specifications and description.

(ii) Prototype identification number.

(iii) Test room conditions.

(3) *Production testing.* In addition to the records required by paragraph (c)(1) of this section, records shall be maintained which shall show with respect to each production unit:

(i) Mattress specifications and description, prototype identification, production unit identification, size of production unit, calendar period of production unit, test date, and test results.

(ii) Random selection number of the tested mattress and information sufficient to show that tested mattresses were selected from the production unit at random from regular production.

(iii) Written data which will enable the Consumer Product Safety Commission to obtain and test mattresses under any applicable compliance market sampling plan.

(4) *Record retention requirements.* The records required by this paragraph shall be retained for 3 years, except that records relating to prototype testing shall be maintained for so long as they are relied upon as demonstrating compliance with the prototype testing requirements of the Standard and shall be retained for 3 years thereafter.

(d) *Records—persons not subject to paragraph (c) of this section.* Any person not subject to paragraph (c) of this section who markets or handles mattresses subject to the Standard shall keep and retain for 3 years records to show the identity of items marketed or handled, the identity of the source of the items, and the date of receipt thereof. Such records shall also show the identity of purchasers and the date of sale, except in the case of individual retail sales to individual ultimate consumers.

(e) *Records—exempted or labeled mattresses.*—(1) Any person marketing or handling mattresses which are entitled to exemption from the Standard as having been manufactured before the effective date of the Standard (June 22, 1973) shall maintain written records sufficient to establish that any such mattresses offered for sale after the effective date of the Standard are eligible for the exemption.

(2) Any person marketing or handling mattresses which are subject to the provisions of § 1632.5(c)(3), and which are labeled in accordance therewith, shall maintain written records to show that such mattresses were manufactured within 6 months after the effective date of the Standard and were labeled in accordance with the provisions of § 1632.5(c)(3).

(f) *Tests for guaranty purposes.* Reasonable and representative tests for the purpose of issuing a guaranty under section 8 of the act for items subject to the Standard shall be those tests performed pursuant to any sampling plan or authorized alternate sampling plan engaged in pursuant to the requirements of the Standard.

(g) *Postponement of production testing.* (1) Any person requesting a temporary suspension of production testing shall file five copies of an application in writing and under oath with the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Such application of prototype mattress or mattresses.

(i) Statement that production testing facilities are unavailable and reason for unavailability.

(ii) Location of closest available testing facility.

(iii) Period of delay requested.

(iv) Detailed plans of applicant to implement production testing procedures.

(v) Certification that prototype mattress or mattresses to be produced comply with the Standard plus test reports, name and address of facility performing the tests, and specification and identification of prototype mattress or mattresses.

(vi) Statement that records and facilities of the applicant are available to the Consumer Product Safety Commission upon request.

(2) Temporary suspension of production testing will not be granted for a period in excess of 6 months upon one application. Upon filing of the application, the requirements for production testing of mattresses may be suspended by the Consumer Product Safety Commission for periods of 30 days while the petition is pending. During such 30-day periods the manufacturer shall submit to the Secretary, weekly reports of mattress shipments as specified by the Commission.

(h) *Compliance with this section.* No person subject to the Flammable Fabrics Act shall manufacture, import, distribute, or otherwise market or handle any mattress which is not in compliance with § 1632.31.

NOTE: The following forms are for use in recording test results pursuant to the Standard and this section. These are illustrative forms only; their use shall not be construed as relieving anyone of other recordkeeping requirements of this section.

ILLUSTRATIVE FORM, PROTOTYPE QUALIFICATION MATTRESS FLAMMABILITY STANDARD FF 4-72

Prototype identification number_____

Room conditions at time of test: Temperature _____ R.H. _____

Mattress specification and description (e.g., tape, thread, flange, "heat barrier" material, corner felt, border backing where there is no flange, other material designed to prevent ignition, ticking, upholstery, etc.). Provide details for:

(Attach necessary Test Results Reporting Forms.)

ILLUSTRATIVE FORM, PRODUCTION TESTING MATTRESS FLAMMABILITY STANDARD FF 4-72

1. Production unit identification _____

2. Mattress type (circle one): Smooth Top Tufted Deep panel Quilt Multi-needle Quilt Other (Identify):_____

3. Sampling plan or plans proceeded under, including options, if any_____

4. Quantity of mattresses covered by testing reported herein and calendar period of their production _____

5. Type of sampling (normal, reduced, batch, or other) and basis for type of sampling used_____

6. Identification of prototype or prototypes of mattresses covered by testing reported herein _____

7. If mattresses covered by testing reported herein are from more than one prototype, identify prototype or prototypes of mattresses tested _____

*8. Random numbers of mattresses tested and method by which random numbers were selected _____

(Attach necessary Test Results Reporting Forms.)

Prototype or production unit identification _____

ILLUSTRATIVE TEST
REQUIRED REPORTING FORM

Report results for each burn, "X" for pass, cigarette burned to full length; "O" for pass, cigarette self-extinguished before burning to full length; "P" for failure. "P" burns shall be considered as having burned to full length. Use blocks appropriate to side being tested.

3 surface locations, bare

Type surface*

3 surface locations, sheeted

Type surface*

(Each line must contain at least 3 burns to full length or 3 burns self-extinguished before burning to full length, except where prototype or unit rejection is established.)

2 surface locations, bare

Type surface*

Tape edge

2 surface locations, sheeted

Type surface*

Tape edge

(Line 1 must contain at least 4 burns to full length or 4 burns self-extinguished and line 2 must contain at least 5 burns to full length or 5 burns self-extinguished, except where prototype or unit rejection is established.)

(Use necessary additional sheets and complete bottom portion of last sheet of complete test. Attach photographs showing all test results.)

Action (Circle one) Accept Reject Retest

Test date _____ Manufacturer _____

I certify that this test was carried out in full accordance with the provisions of Standard FF 4-72.

(Signed) _____
(Tester)

_____
(Name and business association of tester)

* Smooth surface, tape edge, quilt channel, tufting, etc.

EFFECTIVE DATE: This section became effective December 31, 1973.

Subpart D—Interpretations and Policies

AUTHORITY: Secs. 1-17, 67 Stat. 111-15, as amended, 81 Stat. 568-74; 15 U.S.C. 1194-1204.

§ 1632.61 Procedure for verification of materials substitution for mattress tape edges.

(a) Notice is given that the Consumer Product Safety Commission has approved a procedure for verification of materials substitution for mattress tape edges where substitution is desired to be made under § 1632.1(h) of FF 4-72 (the Standard for the Flammability of Mattresses), FF 4-72 was published in the FEDERAL REGISTER of June 8, 1973 (38 FR 15095), and, as a result of a judicially imposed temporary stay, became effective June 22, 1973.

(b) Section 1632.1(h) provides in part: "If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a dimensional or other change in that material shall be deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such dimensional or other change will not reduce the ignition resistance of the mattress prototype."

(c) The Commission will regard a showing "to the satisfaction of the Consumer Product Safety Commission" to have been made with respect to materials substitution of items such as flange materials and tapes at the tape edge under the following circumstances:

(1) The mattress prototype has been qualified previously under the provisions of FF 4-72; and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) A prototype mattress incorporating the substitute materials has been tested with 36 cigarettes (18 per surface) placed at tape edge locations with no ignitions occurring; and

(4) Records are maintained setting forth the details of the materials substitution and showing the results of the testing referred to in paragraph (c)(3) of this section. The records are to be maintained in accordance with regulations established by the Consumer Product Safety Commission (see § 1632.31).

§ 1632.62 Use of muslin sheets.

(a) In this document, the Consumer Product Safety Commission approves the use of white, 100 percent cotton muslin sheets as an alternate to white, 100 percent cotton percale sheets for certain tests of mattress flammability.

(b) The Standard for the Flammability of Mattresses, FF-4-72 (Subpart A of this Part), promulgated under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), which is administered and enforced by the Consumer Product Safety Commission, provides that one of the measures of mattress flammability will be determined by placing lighted cigarettes between two layers of cotton percale sheets placed on mattress surfaces (§ 1632.4(d)(3)). Section 1632.4(b)(6), entitled "Sheet selection," specifies the types of sheets to be used in mattress flammability testing as follows:

> The sheets shall be white, 100 percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 170-200 threads per square inch and fabric weight of 115± 14 gm/m² (3.4±0.4 oz/yd²), or of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(c) A number of requests, both formal and informal, have been received to have the Commission approve alternate types of sheets for mattress flammability testing. The primary reason for requesting alternatives is that sheet manufacturers have drastically reduced their output of all-cotton percale sheets and therefore a permanent testing substitute is needed. The Commission has confirmed the difficulty of obtaining all-cotton percale sheets.

(d) Several different types of sheets have been tested and evaluated to find a type that would provide flammability characteristics closely resembling all-cotton percale sheets. It was found that 100 percent cotton muslin sheets yielded test results comparable to those from 100 percent cotton percale sheets; that is, a lighted cigarette placed between all-cotton muslin sheets caused mattress ignition within a time period comparable to ignition resulting from tests using all-cotton percale. Both all-cotton muslin and all-cotton percale brought mattress ignition 100 percent of the time and within 15 minutes.

(e) Placing lighted cigarettes between any types of cotton-polyester blend sheets caused mattress ignition after considerably longer time periods, or in some instances, no ignition at all. Thus, their use without other modifications of the Standard would result in lowering the level of protection provided by the Standard.

(f) Accordingly, the Commission approves the following sheets for use in testing under the Standard: White, 100 percent cotton sheets, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, with 120-210 threads per square inch and fabric weight of 125±28 gm/m² (3.7±0.8 oz/yd²).

(g) For enforcement purposes, the Commission may test with sheets of 100

percent cotton muslin or 100 percent cotton percale.

(h) All other requirements of the Standard as to sheets remain in effect.

EFFECTIVE DATE: February 6, 1974. This document originally appeared as a notice on February 6, 1974 (39 FR 4684).

§ 1632.63 Policy clarification on renovation of mattresses.

(a) Section 3 of the Flammable Fabrics Act (15 U.S.C. 1192) prohibits, among other matters, the "manufacture for sale" of any product which fails to conform to an applicable standard issued under the act. The Standard for the Flammability of Mattresses, as amended (FF 4–72) (Subpart A of this Part), issued pursuant to the act, provides that, with certain exceptions, mattresses must be tested according to a prescribed method. The standard does not exempt renovation; nor does it specifically refer to renovation.

(b) The purpose of this document is to inform the public that mattresses renovated for sale are considered by the Commission to be mattresses manufactured for sale and, therefore, subject to the requirements of the Mattress Standard. The Commission believes that this policy clarification will better protect the public against the unreasonable risk of fires leading to death, personal injury or significant property damage, and assure that purchasers of renovated mattresses receive the same protection under the Flammable Fabrics Act as purchasers of new mattresses.

(c) For purposes of this document, mattress renovation includes a wide range of operations. Replacing the ticking or batting, stripping a mattress to its springs, rebuilding a mattress, or replacing components with new or recycled materials, are all part of the process of renovation. Any one, or any combination of one or more, of these steps in mattress renovation is considered to be mattress manufacture.

(d) If the person who renovates the mattress intends to retain the renovated mattress for his or her own use, or if a customer of a renovator merely hires the services of the renovator and intends to take back the renovated mattress for his or her own use, "manufacture for sale" has not occurred and such a renovated mattress is not subject to the mattress standard.

(e) However, if a renovated mattress is sold or intended for sale, either by the renovator or the owner of the mattress who hires the services of the renovator, such a transaction is considered to be "manufacture for sale".

(f) Accordingly, mattress renovation is considered by the Commission to be "manufacture for sale" and, therefore, subject to the Mattress Standard, when renovated mattresses are sold or intended for sale by a renovator or the customer of the renovator.

(g) Renovators of mattresses, like manufacturers, work with mattresses of nonstandard size or shape and may, therefore, believe that such mattresses are one-of-a-kind. Section 1632.2(d) of the Mattress Standard provides:

(d) One-of-a-kind mattresses, such as nonstandard sizes or shapes, may be excluded from testing under this standard pursuant to rules and regulations established by the Consumer Product Safety Commission.

(h) However, there are currently no rules or regulations for excluding one-of-a-kind mattresses from testing under the Mattress Standard, although the matter is under active review. Until Commission policy on one-of-a-kind mattress exemption is issued, a renovator who believes that certain mattresses are entitled to one-of-a-kind exemption, may present relevant facts to the Commission and petition for an exemption. Renovators are expected to comply with all the testing requirements of the Mattress Standard until an exemption is approved.

NOTE: This policy was originally published as a notice on May 6, 1975 (40 FR 19677).

Dated: December 22, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75-34878 Filed 12-29-75;8:45 am]

federal register

TUESDAY, DECEMBER 30, 1975



PART IV:

ENVIRONMENTAL PROTECTION AGENCY

■

HAZARDOUS SUBSTANCES

Designation, Removability, Harmful Quantities, Penalty Rates

ENVIRONMENTAL PROTECTION AGENCY
(FRL 471-7)
[40 CFR Part 116]

DESIGNATION OF HAZARDOUS SUBSTANCES

Notice of Proposed Rulemaking

Notice is hereby given in accordance with 5 U.S.C. 553 that the Administrator, Environmental Protection Agency, under authority contained in Section 311(b)(2)(A) of the Federal Water Pollution Control Act Amendments of 1972 [33 U.S.C. 1251 et seq., (the Act)] proposes a new Part 116.

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) amended the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) to add a new Section 311, which provides in Subsection (b)(2)(A) as follows:

> "The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches."

This notice proposes such a designation of hazardous substances.

Section 311(b)(2)(B)(i) and 311(b)(4) of the Act require a determination of actual removability and harmful quantity respectively for each designated substance. In addition, Section 311(b)(2)(B)(iv) of the Act requires the establishment of penalty rates for all substances judged to be not actually removable from the water. These other regulations are proposed concurrently as 40 CFR Parts 117, 118, and 119 respectively.

The designation of hazardous substances provides the foundation for the regulation of discharges of substances other than oil as provided for in Section 311. Remaining regulations and activities required to fully implement the hazardous substances provisions of Section 311 are as follows:

- Fixing limitations of removal liability for small facilities [Section 311(f)(2)].
- Determination of methods of removability [Section 311(j)(1)(A)].
- Development of discharge prevention procedures [Section 311(j)(1)(C)].
- Determination of quantities which are not harmful [Section 311(b)(3)].
- Revision of the National Oil and Hazardous Material Pollution Contingency Plan [Section 311(c)(2)].

On August 22, 1974, after completion of studies and conferences dating from 1970, the Assistant Administrator for Water and Hazardous Materials published an Advance Notice of Proposed Rulemaking for the designation of hazardous substances and the determination of their removability (Federal Register, Vol. 39, No. 164, Part IV, pp. 30466-30471). Included in that publication were: (1) tentative selection criteria used to quantitatively describe the concept of "... imminent and substantial danger to public health or welfare..."; (2) factors considered in the determination of actual removability; (3) a list of substances under consideration; (4) a tentative determination of removability; and (5) a request for data

and comments on both specific and general aspects of the action. In response to the Advance Notice, 84 written comments were received and considered in the development of the proposed rule set forth herein. Comments primarily concerned selection criteria, substances to be deleted or added, spill potential, toxicity information, potential conflict between discharges regulated under Section 311 and those regulated under other sections of the Act, and the term "research quantities".

A. Toxicological Selection Criteria

Tentative selection criteria set forth in the August 22, 1974, Advance Notice were as follows:

> "1. Any element or compound produced in excess of research quantities possesses sufficient danger potential to be considered as a candidate hazardous substance if it is lethal to: (a) One-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 milligrams per liter (mg/l) or less; or (b) one-half of a test population of animals in 14 days or less when administered as a single oral dose equal to or less than 50 milligrams per kilogram (mg/kg) of body weight; or (c) one-half of a test population of animals in 14 days or less when dermally exposed to an amount equal to or less than 200 mg/kg body weight for 24 hours; or (d) one-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 200 cubic centimeters per cubic meter (volume/volume) in air for one hour; or (e) aquatic flora as measured by a 50 percent decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 mg/l.
> 2. To be further considered for designation as a hazardous substance, any element or compound meeting the above criteria must have a reasonable potential for being discharged; i.e., spilled into a water body. Factors being considered in making this evaluation include the production quantities, modes of transportation, handling and storing practices, past spill experience, and physical/chemical properties of each substance."

Selection criteria were employed and are proposed to be used because it was recognized that virtually every substance has the potential for presenting some danger to public health or welfare depending upon the

quantity of substance discharged, and the time, location, and conditions of the discharge. In order to limit the designation to those substances which could reasonably be anticipated to present an imminent and substantial danger to public health or welfare, the above criteria were applied.

Of the toxicological criteria initially proposed in the Advance Notice, there was minimal objection to the use of the "highly toxic" classification as a limitation for selecting substances based on mammalian test data. The highly toxic classification has been adopted by the Environmental Protection Agency as may be found in Federal Register, Vol. 40, No. 129, Part II, pp. 28242-28286, July 3, 1975.

According to the reference cited above, substances which have an oral LD50 of 50 mg/kg of body weight or less, have a dermal LD50 of 200 mg/kg of body weight or less, or have an inhalation LC50 of 20 cubic centimeters per cubic meter of vapor in air or less, are defined as highly toxic to mammals. The term "oral LD50" means that single oral dose which is lethal to one-half of the test population in 14 days. The term "dermal LD50" means that dose dermally absorbed in 24 hours which is lethal to one-half of the test population in 14 days. The term "inhalation LC50" means that concentration of gas or vapor which, upon exposure for one hour, is lethal to one-half of the test population in 14 days.

A change in the "inhalation LC50" value should be noted. The August 22, 1974, Advance Notice of Proposed Rulemaking stated this criterion as lethality to one-half of a test population of animals within

14 days of exposure to a vapor concentration "... equal to or less than 200 cubic centimeters per cubic meter (volume/volume) of air for one hour..." This criterion paralleled the "highly toxic" category adopted by EPA in 40 CFR Part 162.8. The criterion has recently (July 3, 1975) been amended by publication of 40 Federal Register p. 28242, which reduces the cutoff to 20 cubic centimeters per cubic meter of air. For consistency, a corresponding change has been made in this proposed rule. (No change need be made in the current list of materials since none happens to have been designated under the "inhalation LC50" criterion.)

The criterion receiving the greatest number of adverse comments was that pertaining to aquatic animal toxicity which proposed a selection limit of 500 mg/l based on LC50 bioassay data. The term "LC50" means that concentration which is lethal to one-half of a test population of aquatic animals upon continuous exposure for a given period of time, usually 96 hours. The concept of utilizing acute bioassay data was generally supported. However, many commenters expressed the belief that the limitation was either too restrictive or too permissive, with suggested limitation values ranging between 1.0 and 5,000 mg/l.

A common suggestion was that the selection limit be lowered to 100 mg/l. In support of this suggested limit, comments indicated that a hazard ranking system has classified substances with aquatic LC50 values of 100-1,000 mg/l as "practically non-toxic". This system is being considered by governments ratifying the International Convention for the Prevention of Pollution from Ships, 1973, sponsored by the

Intergovernmental Maritime Consultative Organization (IMCO). However, the IMCO system was originally designed for application to tank cleaning and operational discharges from ships at sea beyond the territorial limits, rather than to discharges to the inland waters and the territorial seas. Even though substances with LC50 values of 100 to 1,000 mg/l have been classified as "practically non-toxic", the IMCO system does require some level of control over the discharge of these substances even in waters beyond the territorial seas.

Furthermore, the Agency has evaluated recent fish kill reports in which the causative agent was identified. Twenty-two of the proposed elements and compounds were reported as the causative agent in recent fish kills. Of these, seven have 96 hour LC50 values greater than 100 mg/l. None has an LC50 value consistently greater than 500 mg/l. Thus, a reduction of the aquatic toxicity selection limit to 100 mg/l would result in the deletion of 7 substances which have caused environmental damage. Even though the data used in this analysis are recognized as being less than comprehensive, the significance in lowering this selection criterion would be the elimination of materials such as sulfuric acid, hydrochloric acid, and other materials which have caused fish kills.

In this proposed rulemaking, the aquatic toxicity selection limit of 500 mg/l is maintained. This is done in the belief that it is both appropriate and responsive to the requirement of Section 311 to identify those substances which may present an imminent and substantial danger to the public health or welfare when discharged into navigable waters.

The selection criterion dealing with phytotoxicity was questioned because few data are available which are consistent with the test method specified in the selection criterion. Although no substance is currently listed because of its phytotoxic action, the criterion is maintained to permit future addition of substances which may be detrimental to this important segment of the aquatic environment.

Selection criteria based on effects such as teratogenicity, mutagenicity, carcinogenicity, and bioaccumulation were suggested and have been considered. Typically, these effects have been noted after lengthy or lifetime exposure of test populations to the test material. These data do not, at this time, provide a basis for regulation of acute discharges of such materials. Although the proposed selection criteria do not include consideration of such effects at this time, the Agency intends to keep the relationship of Section 311 to these concerns under continuing review.

Radioactive materials are not included in this proposed rulemaking but may be considered as candidates for designation in the future should sufficient need and information warrant their inclusion.

B. Deletions

In response to the Advance Notice of Proposed Rulemaking, comments requesting the deletion of specific materials were submitted and evaluated. Where accompanied by appropriate supportive data documenting effects not in accordance with the proposed selection criteria, certain materials have been deleted from this proposed list. These materials are:

Ammonium sulfate	Sodium borate
Boric acid	Sodium cacodylate
Cacodylic acid	Sodium silicate

Those comments requesting specific substances be added lacked supporting data of the type and extent necessary to justify expansion of the proposed list at this time. Section 311(b)(2)(A) provides the authority to revise any promulgated designation as may be appropriate. Those substances suggested for addition may be considered along with others at a future date.

C. Potential for Discharge

In regard to the second part of the proposed selection criteria, that dealing with the potential for discharge, several comments requesting clarification were received. The Agency has reexamined the factors listed in the Advance Notice and proposes certain changes.

As set forth in the Advance Notice, the initial screening criterion concerned production of proposed substances in excess of research quantities. It now appears that the question of research quantity is more appropriately viewed as a factor to be utilized in the overall evaluation of spill potential rather than an independent decision point. Difficulty is encountered in identifying a single, specific production quantity indicative of large volume commercial usage versus exclusively research-related use. Consequently, the question of research quantity is now addressed in terms of uses rather than in terms of a specific production volume.

Few data are available concerning the mode of transportation and handling and storage practices of many substances. Therefore, these considerations are no longer included in the assessment of potential for discharge. Factors currently proposed in determining spill potential are:

1. Past history of spillage
2. Production quantity
3. Use and distribution patterns
4. Value of the substance

Candidate substances which meet at least one lethality criterion are further examined for documented evidence of having been discharged in a spill situation. Those substances having a previous history of spillage are maintained as proposed hazardous substances. Because the reporting of spills of substances other than oil is not yet required, it can be concluded that the spillage of many substances has gone unreported. Consequently, those spills presently recorded do not fully represent the magnitude of the problem nor are they an inclusive representation of all substances which have a reasonable potential for discharge.

In evaluating the list of potentially hazardous chemicals, it was realized that a higher probability of a discharge exists for some materials than for others. This is reflected to some extent by reports maintained by the Department of Transportation and the Environmental Protection Agency. These records show that the materials spilled most frequently are, in general, the ones that are most abundant in commerce. That is, a distinction may be made between heavy usage bulk chemicals

and other less widely used and distributed chemicals. An analysis of production quantities, usage, and selling price indicates that chemicals produced in excess of one billion pounds annually are commonly used in highly diversified products and processes. As such, they are handled and transported in large quantities. Such chemicals also have a typically low selling price. Accordingly, candidate substances produced in excess of one billion pounds per year are judged to have a relatively high spill potential and are proposed for designation as hazardous substances.

Materials which are produced in quantities less than one billion pounds annually or for which annual production is not known, are further examined for use and distribution patterns, and unit price. Substances with usages limited to research, medicinals, food additives, or analytical reagents are not further considered for designation at this time. These materials are subject to limited production and bulk storage and transport. It is further noted that such substances are generally of high purity and as such are subject to careful handling and have a high selling price. Such substances are believed to pose only limited potential for spillage.

Substances having a high commercial market value are considered to pose a limited spill risk. Additional safeguards in the manufacture, handling, and processing of such valuable substances apparently minimize the possibility of spillage.

Because of their intentional use and distribution in the environment, chemicals used primarily as pesticides are believed to have a high prob-

ability of discharge to the water and are maintained as proposed hazardous substances regardless of production volume or selling price.

As an example of a material proposed for designation, sulfuric acid is the highest volume product in the chemical industry with 59 billion pounds produced in 1971. As a workhorse of industry, its production and use are steadily increasing. Department of Transportation and Environmental Protection Agency records show a continual increase in accidents involving sulfuric acid through the years 1971, 1972, and 1973. The low cost of the material, the large number of manufacturers and distributors, and high production and transportation volume are apparent contributive factors to the high spill frequency. Since toxicological properties are in accordance with proposed selection criteria, sulfuric acid is proposed for designation as a hazardous substance.

An example of a material not proposed as a hazardous substance because of low spill potential is ammonium gluconate. This compound was tentatively included in the Advance Notice list because of toxic properties of the ammonium ion. Subsequent analysis reveals that production figures are not available, the chemical has only limited distribution and use as an emulsifier in the food industry, and no record of past spillage. The analysis indicates low spill potential and the substance is no longer considered for designation.

Other substances listed in the Advance Notice and below appear to have little probability for discharge and are deleted because of one or more of the following factors:

1. No history of spill discharge
2. Low production quantity
3. Limited commercial use and distribution
4. High value of the substance

D. Materials Deleted Because of Low Potential for Discharge

Ammonium Ferrocyanide
Ammonium Formate
Ammonium Gluconate
Ammonium Molybdate
Antimony Triiodide
Arsenic Tribromide
Arsenic Trifluoride
Arsenic Triiodide
Beryllium Hydroxide
Beryllium Phosphate
Beryllium Sulfate
Brucine
Cadmium Fluoborate
Cadmium Nitrate
Cadmium Sulfate
Catechol
Chromous Carbonate
Chromous Oxalate
Cobaltous Acetate
Cobaltous Chloride
Cobaltous Citrate
Cobaltous Iodide
Cobaltous Nitrate
Cobaltous Perchlorate
Cobaltous Succinate
Cobaltous Sulfate
Cupric Acetylacetonate
Cupric Bromide
Cupric Gluconate
Cuprous Iodide
Ferric Glycerophosphate
Ferric Phosphate
Ferrous Oxalate
Hydroquinone
Lead Bromide
Lithium Fluoride
Mercuric Ammonium Chloride
Mercuric Bromide
Mercuric Chloride
Mercuric Iodide
Mercuric Oxide
Mercurous Chloride
Mercurous Iodide

Molybdic Trioxide	Selenic Acid
Nickel Acetate	Selenium Oxychloride
Nickel Bromide	Tannic Acid
Nickel Fluoride	Vanadium Oxytrichloride
Nickel Iodide	Zinc Ammonium Sulfate
Nickel Perchlorate	Zinc Permanganate
Phosphorous Pentafluoride	Zinc Propionate
Pyrogallic Acid	Zirconium Ammonium Fluoride

In summary, the proposed selection criteria for hazardous substances are as follows: any element, compound, or mixture thereof, possesses sufficient danger potential to be designated as a hazardous substance, if it is lethal to:

(a) One-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 milligrams per liter (mg/l) or less; or

(b) One-half of a test population of animals in 14 days or less when administered as a single oral dose equal to or less than 50 milligrams per kilogram (mg/kg) of body weight; or

(c) One-half of a test population of animals in 14 days or less when dermally exposed to an amount equal to or less than 200 mg/kg of body weight for 24 hours; or

(d) One-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter (volume/volume) in air for one hour; or

(e) Aquatic flora as measured by a 50% decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 milligrams per liter (mg/l).

In addition to meeting one or more of the above acute lethality criteria, a candidate substance must have a reasonable potential for being discharged. Factors considered in making this evaluation include 1) past spill history, 2) production quantity, 3) use and distribution patterns, and 4) value of the substance.

E. Applicability

In considering the applicability of the proposed rules, the Advance Notice stated:

> "It is important to note that not all discharges of substances designated as hazardous will be subject to the enforcement provisions of Section 311. Because Section 311 applies only to discharges from vessels or facilities, a designation regulation would not apply to discharges from other sources such as agricultural land runoff, or irrigation return flows. The discharges being considered can be placed in two separate categories. The first relates to transportation and storage incidents in which there is normally no release of the substance except in the spill situation. The second relates to industrial production facilities in which a designated hazardous substance is released in quantities exceeding those of a permitted normally operating effluent. Periodic or continuous discharges are regulated under other provisions of the Act. Accordingly, the Agency is considering that the regulation would exclude from designation discharges of hazardous substances which are made: (a) In compliance with effluent limitations or guidelines established under Sections 301, 302, 304, 306, and 307 of the Act; (b) in quantities not exceeding those identified for such substances in an application for an NPDES permit which has been issued pursuant to Section 402 of the Act; (c) in compliance with permits issued under Section 404 of the Act or Sections 102 and 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); (d) from properly functioning marine sanitation flow-through devices certified by the United States Coast Guard pursuant to Section 312 of the Act; or (e) in the course of a permitted use of a pesticide registered under the Federal Insecticide,

Fungicide, and Rodenticide Act (7 U.S.C. Sections 136 and through 136y)."

Although most comments agreed with the general purpose, the exclusions are now considered more appropriate to the proposed rules concerning harmful quantities (proposed 40 CFR Part 118) and rates of penalty (proposed 40 CFR Part 119) to be published concurrently. The intent is not the exclusion of substances from designation, but rather the exclusion of certain discharges permitted under other sections of the Act or other authorities from notification requirements and penalty provisions of Section 311. This will allow use of revolving funds [Section 311(k)] to be used for discharges of any designated hazardous substance. Consequently, applicability of this proposed rule may be stated as follows:

> The elements and compounds, or mixtures thereof, appearing on the following list are designated as hazardous substances if discharged into navigable waters or adjoining shorelines, or into the waters of the contiguous zone from vessels, onshore facilities or offshore facilities.

Interested persons may participate in this rulemaking by submitting written comments or requests for information in triplicate to: Dr. C. Hugh Thompson, Chief, Hazardous Substances Branch, Criteria and Standards Division, Office of Water Planning and Standards, WH-595, Environmental Protection Agency, Washington, D.C. 20460.

Copies of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. The Environmental Protection Agency information regulation, 40 CFR Part 2 provides that a reasonable fee may be charged for copying.

All comments received on or before 60 calendar days after the date of this publication will be considered.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

A number of criteria have been defined to determine which actions require an inflationary impact statement. The Agency's analysis of the potential economic impact of these regulations indicate that none of the criteria defining a major proposal have been met. Thus, it is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821 and that no inflationary impact statement is required.

Russell E. Train
Administrator

Dated: DEC 2 [illegible] 1975

Certified [illegible] original

Part 116 - DESIGNATION OF HAZARDOUS SUBSTANCES

116.1 Applicability

116.2 Abbreviations

116.3 Definitions

116.4 Designation of Hazardous Substances

Authority: Sections 311(b)(2)(A) and 501(a) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.).

116.1 APPLICABILITY

The regulation of this part designates hazardous substances under Section 311(b)(2)(A) of the Act. The proposed regulation applies to discharges of substances designated herein into navigable waters or adjoining shorelines or the waters of the contiguous zone from vessels and onshore and offshore facilities.

116.2 ABBREVIATIONS

ppm = parts per million

mg = milligram(s)

kg = kilogram(s)

mg/l = milligram(s) per liter

mg/kg = milligram(s) per kilogram

116.3 DEFINITIONS

As used in this part, all terms shall have the meaning defined in the Act and as given below.

"The Act" means the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500, 33 U.S.C. 1251 et seq.);

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"Onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"Navigable waters" shall have the same meaning as it has in Section 502(7) of the Act, and includes: (1) all navigable waters of the United States; (2) tributaries of navigable waters of the United States; (3) interstate waters; (4) intrastate lakes, rivers and streams which are utilized by interstate travelers for recreational and other purposes; (5) intrastate lakes, rivers and streams from which fish or shellfish are taken and sold in interstate commerce; and (6) intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce;

"Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone;

"Territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles;

"Aquatic animals" means appropriately sensitive wholly aquatic animals which carry out respiration by means of a gill structure permitting gaseous exchange between the water and the circulatory system;

"Animals" means appropriately sensitive animals which carry out respiration by means of a lung structure permitting gaseous exchange between air and the circulatory system;

"Aquatic flora" means plant life associated with the aquatic ecosystem including, but not limited to, algae and higher plants;

"Mixture" means any combination of two or more elements and/or compounds in solid, liquid or gaseous form.

116.4 DESIGNATION OF HAZARDOUS SUBSTANCES

The following criteria were employed in the derivation of the list and may be used in any future revisions thereof.

Any element or compound or structural isomer which is lethal to:

(a) one-half of a test population of aquatic animals in 96 hours or less at a concentration of 500 mg/l (ppm) or less; or

(b) one-half of a test population of animals in 14 days when administered as a single oral dose equal to or less than 50 mg/kg of body weight; or

(c) one-half of a test population of animals in 14 days when dermally exposed to an amount equal to or less than 200 mg/kg of body weight for 24 hours; or

(d) one-half of a test population of animals in 14 days or less when exposed to a vapor concentration equal to or less than 20 cubic centimeters per cubic meter of air for one hour; or

(e) aquatic flora as measured by a 50% decrease in cell count, biomass, or photosynthetic ability in 14 days or less at concentrations equal to or less than 100 mg/l (ppm);

is a candidate for designation as a hazardous substance.

After satisfying the toxicity screen a determination is made that the candidate material has a reasonable potential for discharge as determined by: 1) past record of discharge; 2) production volume; 3) use and distribution patterns; and 4) selling price; and is therefore proposed as a hazardous substance.

The elements, compounds or their structural isomers, or mixtures thereof, appearing on the following Table 116.4, are designated as hazardous substances if discharged into navigable waters or adjoining shorelines or into the waters of the contiguous zone from vessels, onshore facilities or offshore facilities.

TABLE 116.4 LIST OF HAZARDOUS SUBSTANCES

The substances which are indented in the left hand column of the following list are designated as hazardous substances on the basis of toxicological properties of one component ion or group. Toxicological criteria met by each substance are denoted by the number on the left of the common name according to the following key:

1 = aquatic animal toxicity
2 = oral mammalian toxicity
3 = dermal mammalian toxicity
4 = inhalation mammalian toxicity
5 = phytotoxicity

The underlined headings in the list are provided only for ease of referencing and are not designated hazardous substances; e.g., Fluorine compounds does not mean that all fluorine compounds are designated as hazardous substances.

	COMMON NAME	SYNONYMS	ISOMERS
1	Acetaldehyde	ethanal ethyl aldehyde aldehyde acetic aldehyde	
1	Acetic acid	glacial acetic acid vinegar acid	
1	Acetic anhydride	acetic oxide acetyl oxide	
2	Acetone cyanohydrin	2-methyllactonitrile alpha-hydroxyisobutyronitrile	
1	Acetyl bromide		
1	Acetyl chloride		
1, 2	Acrolein	2-propenal acrylic aldehyde acrylaldehyde acraldehyde	
1	Acrylonitrile	cyanoethylene Fumigrain Ventox propenenitrile vinyl cyanide	
2	Adiponitrile	1, 4-dicyanobutane	
1	Aldrin	Octalene HHDN	
1	Allyl alcohol	2-propen-1-ol 1-propenol-3 vinyl carbinol	
1	Allyl chloride	3-chloropropene 3-chloropropylene Chlorallylene	
1	Aluminum sulfate	alum	
1	Ammonia		

	COMMON NAME	SYNONYMS	ISOMERS
	Ammonium compounds		
1	Ammonium acetate	acetic acid ammonium salt	
1	Ammonium benzoate		
1	Ammonium bicarbonate	acid ammonium carbonate ammonium hydrogen carbonate	
1	Ammonium bisulfite		
1	Ammonium bromide		
1	Ammonium carbamate	ammonium aminoformate	
1	Ammonium carbonate		
1	Ammonium chloride	ammonium muriate sal ammoniac salmiac Amchlor	
1	Ammonium citrate, dibasic	diammonium citrate citric acid diammonium salt	
1	Ammonium fluoborate		
1	Ammonium hydroxide		
1	Ammonium hypophosphite		
1	Ammonium iodide		
1	Ammonium nitrate		
1	Ammonium oxalate		
1	Ammonium pentaborate	ammonium decaborate	
1	Ammonium persulfate	ammonium peroxydisulfate	
1	Ammonium silicofluoride	ammonium fluosilicate	
1	Ammonium sulfamate	Ammate AMS ammonium amidosulfate	
1	Ammonium sulfide		
1	Ammonium sulfite		
1	Ammonium tartrate	tartaric acid ammonium salt	
1	Ammonium thiocyanate	ammonium rhodanide ammonium sulfocyanate ammonium sulfocyanide	
1	Ammonium thiosulfate	ammonium hyposulfite	
1	Amyl acetate	amylacetic ester pear oil banana oil	normal-; iso-; secondary-; tertiary- amyl acetate
1	Aniline	aniline oil phenylamine aminobenzene aminophen kyanol	

	COMMON NAME	SYNONYMS	ISOMERS
	Antimony compounds		
1	Antimony pentachloride		
1	Antimony pentafluoride		
1	Antimony potassium tartrate	tartar emetic tartrated antimony tartarized antimony potassium antimonyltartrate	
1	Antimony tribromide		
1	Antimony trichloride	butter of antimony	
1	Antimony trifluoride	antimony fluoride	
1	Antimony trioxide	diantimony trioxide flowers of antimony	
	Arsenic compounds		
1, 3	Arsenic acid	orthoarsenic acid	
1	Arsenic disulfide	arsenic monosulfide red arsenic sulfide	
1, 2	Arsenic pentaoxide	arsenic acid anhydride arsenic oxide	
1	Arsenic trichloride	arsenic chloride arsenious chloride arsenous chloride butter of arsenic	
1, 2	Arsenic trioxide	arsenious acid arsenious oxide white arsenic	
1	Arsenic trisulfide	arsenious sulfide yellow arsenic sulfide	
1	Calcium arsenate	tricalcium ortho-arsenate	
1	Calcium arsenite		
1	Potassium arsenate		
1	Potassium arsenite	potassium metaarsenite	
1	Sodium arsenate	disodium arsenate	
1, 2	Sodium arsenite	sodium metaarsenite	
1	Benzene	cyclohexatriene benzol	
1	Benzoic acid	benzenecarboxylic acid phenylformic acid dracylic acid	
1, 3	Benzonitrile	phenyl cyanide cyanobenzene	
1	Benzoyl chloride	benzenecarbonyl chloride	
1	Benzyl chloride		

	COMMON NAME	SYNONYMS	ISOMERS
	Beryllium compounds		
1	Beryllium chloride		
1, 2	Beryllium fluoride		
1, 3	Beryllium nitrate		
1, 2	Butyl acetate	acetic acid normal-butyl ester acetic acid secondary-butyl ester acetic acid iso-butyl ester acetic acid tertiary-butyl ester	normal-; secondary-; iso-; tertiary-butyl acetate
1	Butylamine	1-; 2-aminobutane 2-amino-2-methylpropane 1-amino-2-methylpropane	normal-; secondary-; tertiary-butylamine
1	Butyric acid	butanoic acid ethylacetic acid	normal-; iso-butyric acid
	Cadmium compounds		
1	Cadmium acetate		
1	Cadmium bromide		
1	Cadmium chloride		
1	Calcium carbide	carbide acetylenogen	
1	Calcium hydroxide	lime, hydrated slaked lime calcium hydrate	
1	Calcium hypochlorite		
1	Calcium oxide	lime quicklime	
1, 2	Captan	Orthocide-406 SR-406 Vancide-89	
1	Carbaryl	Sevin	
1	Carbon disulfide	carbon bisulfide dithiocarbonic anhydride	
1	Chlordane	Toxichlor	
1	Chlorine		

	COMMON NAME	SYNONYMS	ISOMERS
1	Chlorobenzene	monochlorobenzene benzene chloride	
1	Chloroform	trichloromethane	
1	Chlorosulfonic acid	sulfuric chlorohydrin	
	Chromium compounds		
1	Ammonium bichromate	ammonium dichromate	
1	Ammonium chromate		
1, 2	Calcium chromate	calcium chrome yellow gelbin yellow ultramarine	
3	Chromic acetate		
1	Chromic acid	chromic anhydride chromium trioxide	
1	Chromic sulfate		
1	Chromous chloride		
1	Chromyl chloride	chromium dioxychloride	
1	Lithium bichromate	lithium dichromate	
1	Lithium chromate		
1	Potassium bichromate	potassium dichromate	
1	Potassium chromate		
1	Sodium bichromate	sodium dichromate	
1	Sodium chromate		
1	Strontium chromate		
1	Zinc bichromate	zinc dichromate	
	Cobalt compounds		
1	Cobaltous bromide	cobalt bromide	
1	Cobaltous fluoride	cobalt fluoride	
1	Cobaltous formate	cobalt formate	
1	Cobaltous sulfamate	cobalt sulfamate	
	Copper compounds		
1	Cupric acetate	copper acetate crystallized verdigris	
1, 2	Cupric acetoarsenite	copper acetoarsenite copper acetate arsenite Paris green	
1	Cupric chloride	copper chloride	
1	Cupric formate	copper formate	
1	Cupric glycinate	copper glycinate cupric aminoacetate	
1	Cupric lactate	copper lactate	
1	Cupric nitrate	copper nitrate	
1	Cupric oxalate	copper oxalate	
1	Cupric subacetate	basic copper acetate	
1	Cupric sulfate	copper sulfate	
1	Cupric sulfate, ammoniated	ammoniated copper sulfate	
1	Cupric tartrate	copper tartrate	
1	Cuprous bromide	copper bromide	
1, 2	Coumaphos	Co-Ral	
1	Cresol	cresylic acid hydroxytoluene	meta-; ortho-; para-cresol
	Cyanide compounds		
1	Barium cyanide		
1	Calcium cyanide		
1, 2	Hydrogen cyanide	hydrocyanic acid	
1, 2	Potassium cyanide		
1, 2	Sodium cyanide		
1	Zinc cyanide		
1	Cyanogen chloride		
1	Cyclohexane	hexahydrobenzene hexamethylene hexanaphthene	
1	2, 4-D (acid)	2, 4-dichlorophenoxyacetic acid	
1	2, 4-D (esters)	2, 4-dichlorophenoxyacetic acid esters	
1	Dalapon	Dowpon Gramevin Radapon Unipon	
1	DDT	p, p'-DDT	
1	Diazinon	Dipofene Diazitol Basudin Spectracide	
1	Dicamba	2-methoxy-3, 6-dichlorobenzoic acid	
1	Dichlobenil	2, 6-dichlorobenzonitrile 2, 6-DBN	
1	Dichlone	Phygon dichloronaphthoquinone	
1	Dichlorvos	2, 2-dichlorovinyl dimethyl phosphate Vapona	
1	Dieldrin	Alvit	
1	Diethylamine		

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	COMMON NAME	SYNONYMS	ISOMERS
1	Dimethylamine		
1	Dinitrobenzene	dinitrobenzol	
1, 2	Dinitrophenol	Aldifen	2, 3-; 2, 4-; 2, 5-; 2, 6; 3, 4-; 3, 5- dinitrophenol
1	Diquat	Aquacide Dextrone Reglone Diquat dibromide	
1, 2	Disulfoton	Di-syston	
1	Diuron	DCMU DMU	
1	Dodecylbenzenesulfonic acid		
1	Dodecylbenzenesulfonic acid, calcium salt		
1	Dodecylbenzenesulfonic acid, isopropanolamine salt		
1	Dodecylbenzenesulfonic acid, sodium salt		
1	Dodecylbenzenesulfonic acid, triethanolamine salt		
1	Dursban	chlorpyrifos	
1	Endosulfan	Thiodan	
1, 2	Endrin	Mendrin Compound 269	
1, 2	Ethion	Nialate	
1	Ethylbenzene		
1	Ethylenediamine	1, 2-diaminoethane	
1	Ethylenediamine-tetraacetic acid	EDTA edetic acid Havidote (ethylenedinitrilo)-tetraacetic acid	
	Fluorine compounds		
1	Aluminum fluoride	aluminum trifluoride	
1	Ammonium bifluoride	acid ammonium fluoride ammonium hydrogen fluoride	
1, 2	Ammonium fluoride	neutral ammonium fluoride	
1	Hydrofluoric acid	fluohydric acid	
1	Sodium bifluoride		
1	Sodium fluoride	villiaumite	
1	Stannous fluoride		

	COMMON NAME	SYNONYMS	ISOMERS
1	Formaldehyde	methyl aldehyde methanal formalin	
1	Formic acid	methanoic acid	
1	Fumaric acid	trans-butenedioic acid trans-1, 2-ethylene-dicarboxylic acid boletic acid allomaleic acid	
1	Furfural	2-furaldehyde pyromucic aldehyde	
1, 2	Guthion	Gusathion azinphos-methyl	
1	Heptachlor	Velsicol-104 Drinox Heptagran	
1	Hydrochloric acid	hydrogen chloride muriatic acid	
1	Hydroxylamine	oxammonium	
	Iron compounds		
1	Ferric ammonium citrate	ammonium ferric citrate	
1	Ferric ammonium oxalate	ammonium ferric oxalate	
1	Ferric chloride	flores martis iron trichloride	
1	Ferric fluoride		
1	Ferric nitrate	iron nitrate	
1	Ferric sulfate	ferric persulfate ferric sesquisulfate ferric tersulfate	
1	Ferrous ammonium sulfate	Mohr's salt iron ammonium sulfate	
1	Ferrous chloride	iron chloride iron dichloride iron protochloride	
1	Ferrous sulfate	green vitriol iron vitriol iron sulfate iron protosulfate	
1	Isoprene	2-methyl-1, 3-butadiene	
1	Kelthane	di(p-chlorophenyl)-trichloromethylcarbinol DTMC dicofol	

	COMMON NAME	SYNONYMS	ISOMERS
	Lead compounds		
1	Lead acetate	sugar of lead	
1	Lead arsenate		
1	Lead chloride		
1	Lead fluoborate		
1	Lead fluoride	lead difluoride plumbous fluoride	
1	Lead iodide		
1	Lead nitrate		
1	Lead stearate	stearic acid lead salt	
1	Lead sulfate		
1	Lead sulfide	galena	
1	Lead tetraacetate		
1	Lead thiocyanate	lead sulfocyanate	
1	Lead thiosulfate		
1	Lead tungstate		
1	Lindane	gamma-BHC gamma-benzene hexachloride	
1	Malathion	phosphothion	
1	Maleic acid	cis-butenedioic acid cis-1, 2-ethylenedicarboxylic acid toxilic acid	
1	Maleic anhydride	2, 5-furandione cis-butenedioic anhydride toxilic anhydride	
	Mercury compounds		
1	Mercuric acetate	mercury acetate	
1	Mercuric cyanide	mercury cyanide	
1	Mercuric nitrate	mercury nitrate mercury pernitrate	
1	Mercuric sulfate	mercury sulfate mercury persulfate mercury bisulfate	
1	Mercuric thiocyanate	mercury thiocyanate mercuric sulfocyanate mercuric sulfocyanide	
1	Mercurous nitrate	mercury protonitrate	
1	Methoxychlor	DMDT methoxy-DDT	
1	Methyl mercaptan	methanethiol mercaptomethane methyl sulfhydrate thiomethyl alcohol	

	COMMON NAME	SYNONYMS	ISOMERS
1	Methyl methacrylate	methacrylic acid methyl ester methyl-2-methyl-2-propenoate	
1, 2	Methyl parathion	Nitrox-80	
1, 2	Mevinphos	Phosdrin	
1	Monoethylamine	ethylamine aminoethane	
1	Monomethylamine	methylamine aminomethane	
1	Naled	Dibrom	
1	Naphthalene	white tar tar camphor naphthalin	
1	Naphthenic acid	cyclohexanecarboxylic acid hexahydrobenzoic acid	
	Nickel compounds		
1	Nickel ammonium sulfate	ammonium nickel sulfate	
1, 2	Nickel chloride	nickelous chloride	
1	Nickel formate		
1	Nickel hydroxide	nickelous hydroxide	
1	Nickel nitrate		
1	Nickel sulfate	nickelous sulfate	
1	Nitric acid	aqua fortis	
1	Nitrobenzene	nitrobenzol oil of mirbane	
1	Nitrogen dioxide	nitrogen tetraoxide	
1	Nitrophenol	mononitrophenol	meta-; ortho-; para-nitrophenol
1	Paraformaldehyde	Paraform Formagene Triformol polymerized formaldehyde polyoxymethylene	
1, 2	Parathion	DNTP Niran	

	COMMON NAME	SYNONYMS	ISOMERS
1	Pentachlorophenol	PCP Penta	
1	Phenol	carbolic acid phenyl hydroxide hydroxybenzene oxybenzene	
1	Phosgene	diphosgene carbonyl chloride chloroformyl chloride	
1	Phosphoric acid	orthophosphoric acid	
1, 2	Phosphorus	black phosphorus red phosphorus white phosphorus yellow phosphorus	
1	Phosphorus oxychloride	phosphoryl chloride phosphorus chloride	
1	Phosphorus pentasulfide	phosphoric sulfide thiophosphoric anhydride phosphorus persulfide	
1	Phosphorus trichloride	phosphorous chloride	
1	Polychlorinated biphenyls	PCB Aroclor Polychlorinated diphenyls	
1	Potassium hydroxide	potassium hydrate caustic potash potassa	
1	Potassium permanganate	chameleon mineral	
1	Propionic acid	propanoic acid methylacetic acid ethylformic acid	
1	Propionic anhydride	propanoic anhydride methylacetic anhydride	
1	Propyl alcohol	ethyl carbinol propylic alcohol propanol	normal-; iso-propyl alcohol
1	Pyrethrins	Pyrethrin I Pyrethrin II	

	COMMON NAME	SYNONYMS	ISOMERS
1	Quinoline	1-benzazine benzo[b]pyridine leucoline chinoleine leucol	
1	Resorcinol	resorcin 1, 3-benzenediol meta-dihydroxybenzene	
	Selenium compounds		
1	Selenium oxide	selenium dioxide	
1, 2	Sodium selenite		
1	Sodium	natrium	
1	Sodium bisulfite	sodium acid sulfite sodium hydrogen sulfite	
1	Sodium hydrosulfide	sodium sulfhydrate	
1	Sodium hydroxide	caustic soda soda lye sodium hydrate	
1	Sodium hypochlorite	bleach	
1	Sodium methylate	sodium methoxide	
1	Sodium nitrite		
1	Sodium phosphate, dibasic		
1	Sodium phosphate, monobasic		
1	Sodium phosphate, tribasic		
1	Sodium sulfide		
1, 2	Strychnine		
1	Styrene	vinylbenzene phenylethylene styrol styrolene cinnamene cinnamol	
1	Sulfuric acid	oil of vitriol oleum	
1	Sulfur monochloride	sulfur chloride	

	COMMON NAME	SYNONYMS	ISOMERS
1	2,4,5-T (acid)	2,4,5-trichlorophenoxyacetic acid	
1	2,4,5-T (esters)	2,4,5-trichlorophenoxyacetic esters	
1	TDE	DDD	
1	Tetraethyl lead	lead tetraethyl TEL	
1,2	Tetraethyl pyrophosphate	TEPP	
1	Toluene	toluol methylbenzene phenylmethane Methacide	
1	Toxaphene	camphechlor	
1	Trichlorfon	Dipterex Dylox	
1	Trichlorophenol	Collunosol Dowicide 2 or 2S Omal Phenachlor	
1	Triethylamine		
1	Trimethylamine	TMA	
	Uranium compounds		
1	Uranium peroxide		
1	Uranyl acetate		
1	Uranyl nitrate		
1	Uranyl sulfate		
	Vanadium compounds		
1	Vanadium pentoxide	vanadic anhydride vanadic acid anhydride	
1	Vanadyl sulfate	vanadic sulfate vanadium sulfate	
1	Vinyl acetate	acetic acid ethylene ether	
1	Xylene	dimethylbenzene xylol	meta-; ortho-; para-xylene
1	Xylenol	dimethylphenol hydroxydimethyl benzene	
1,2	Zectran	mexacarbate	

	COMMON NAME	SYNONYMS	ISOMERS
	Zinc compounds		
1	Zinc acetate		
1	Zinc ammonium chloride		
1	Zinc borate		
1	Zinc bromide		
1	Zinc carbonate		
1	Zinc chloride	butter of zinc	
1	Zinc fluoride		
1	Zinc formate		
1	Zinc hydrosulfite		
1	Zinc nitrate		
1	Zinc phenolsulfonate	zinc sulfocarbolate	
1,2	Zinc phosphide		
1	Zinc potassium chromate	zinc yellow citron yellow buttercup yellow zinc chrome	
1	Zinc silicofluoride	zinc fluosilicate	
1	Zinc sulfate	white vitriol zinc vitriol white copperas	
1	Zinc sulfate, monohydrate		
	Zirconium compounds		
1	Zirconium acetate		
1	Zirconium potassium fluoride		
1	Zirconium nitrate		
1	Zirconium oxychloride	zirconyl chloride zirconium chloride, basic	
1	Zirconium sulfate	disulfatozirconic acid	
1	Zirconium tetrachloride		

[FR Doc.75-34948 Filed 12-29-75;8:48 am]

ENVIRONMENTAL PROTECTION AGENCY
(FRL 471-8)
[40 CFR Part 117]

DETERMINATION OF REMOVABILITY
OF HAZARDOUS SUBSTANCES
Notice of Proposed Rulemaking

Notice is hereby given in accordance with 5 U.S.C. 553 that the Administrator, Environmental Protection Agency, pursuant to the authority contained in Section 311(b)(2)(B)(i) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), proposes a new Part 117.

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) amended the Federal Water Pollution Control Act of 1970 (33 U.S.C. 1151 et seq.) to add a new Section 311, which provides in Subsection (b)(2)(B)(i) as follows:

> "The Administrator shall include in any designation under subparagraph (A) of this subsection a determination whether any such designated hazardous substance can actually be removed."

In this notice, the Administrator proposes a determination of the actual removability of substances proposed (40 CFR Part 116) under Section 311(b)(2)(A).

On August 22, 1974, the Assistant Administrator for Water and Hazardous Materials published an Advance Notice of Proposed Rulemaking for the designation of hazardous substances and the determination of their removability (Federal Register, Vol. 39, No. 164, Part IV, pp. 30466-30471). In addition to selection criteria and a tentative list of substances under consideration for designation, factors and concepts relative to the determination of removability were set forth at that time. An initial determination was made that all substances under consideration were not "actually removable" from the water once discharged.

In response to the request for data and comments contained in the Advance Notice, 84 written comments were received and considered in the development of the proposed rule set forth herein. Comments and data relative to the selection criteria and listed substances are discussed in the proposed 40 CFR Part 116, published concurrently.

Several legal, technical, and administrative factors must be examined in the determination of the actual removability. The use of these factors to efficiently implement the law has been a cause of concern. These factors were identified throughout the development of the legislation. The situation may be best summarized by recognizing that "remove or removal" as defined in Section 311(a)(8) "... refers to removal of the oil or hazardous substances from the water and

shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to, fish, shellfish, wildlife, and public and private property shorelines and beaches." At the same time, Section 311(b)(2)(B)(i) requires "... a determination whether any such designated hazardous substance can actually be removed."

There are alternative ways of interpreting the question of determining removability. One alternative is to recognize that the definition of "remove" or "removal", which includes mitigating action, could be very broad covering any response activity. Therefore, almost any material discharged under almost any circumstances could be mitigated to some degree and therefore be determined to be removable. Alternatively, a determination which recognized that actual removability does not include damage mitigation would imply that few, if any, materials under all or even typical circumstances could be actually removed from the water. Between these two extremes, there appear to be some materials with properties which could be described as removable under certain conditions of discharge. However, a key restraint is that removability must be determined for the proposed substances in advance, and without consideration of the conditions surrounding the discharge.

In the August 22, 1974 Advance Notice of Proposed Rulemaking, the Agency made the following interpretation of the removability determination:

To satisfy the requirement of section 311(b)(2)(B)(i), the Agency is considering the determination of actual removability from the water of each candidate substance. Factors under study in making this determination include the substance's solubility, density, physical state, dispersion characteristics, aquatic stress potential such as acute lethality, potential for leaving a residue, and detectability in the water body, as well as the current status of removal technology and availability of necessary equipment. Based upon these factors, the Agency is considering the determination that all of the substances listed in this advance notice of proposed rulemaking are not actually removable. In this respect it should be noted that section 311(a)(8) contains a definition of "remove" or "removal". The definition has two elements: (1) "Removal of the oil or hazardous substances from the water and shorelines"; and (2) "the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare." The phrase "actually be removed" as used in section 311(b)(2)(B)(i) is considered to refer only to the first element of this definition. In other words, if the spilled substance cannot normally be removed from a water body by physical, chemical or biological means, then it would not be "actually removable" for purposes of the eventual hazardous substance designation. The fact that some other action may be possible to "minimize or mitigate damage to the public health or welfare" -- does not make the substance "actually removable" for purposes of hazardous substance designation. However, actions taken under the second element of the definition in section 311(a)(8) -- i.e., actions taken to minimize or mitigate damage but which do not result in actual removal -- may qualify for reimbursement from the revolving fund under section 311(c) and may result in liability of the discharger under the conditions specified in section 311(f).

Thus, the Agency adopted the position that the regulatory requirement for determining "actual removability" under Section 311(b)(2)(B)(i) was separable from the provision of Sections 311(f) and 311(g) which hold the discharger liable for actions taken under Section 311(c)(1) and the broader definition of "remove" or "removal" found in Section 311(a)(8).

In response to the August 22, 1974, Advance Notice of Proposed Rulemaking, many commenters expressed the opinion that the tentative determination that all proposed substances are not actually removable was based on an overly restrictive interpretation of the regulatory requirement for determining removability. Recognizing the broad definition of "remove" or "removal", it was suggested by commenters that taking action to mitigate damages would, in fact, be taking action to actually remove discharges of hazardous substances. That argument fails to recognize that the basic thrust of Section 311 is the prevention of discharges of hazardous substances and the clean-up or mitigation of environmental damages when discharges do occur. Civil penalties are viewed as economic incentives to reduce discharges through prevention while clean-up liabilities insure the protection of public health or welfare. Although clean-up liabilities, which exist for substances determined to be actually removable, may provide incentives for prevention in some cases, it is clear that for discharges in many waters, effective damage mitigation or clean-up action is difficult. In these waters, discharges of substances determined to be actually removable could continually occur with no economic disincentive other than that set forth under Section 311(b)(6) being employed. Thus, the determination that any designated substance is actually removable would reduce the incentive to prevent discharge of that substance. The penalty presently employed under 311(b)(6) for oil discharges can be viewed as insufficient for discharges of hazardous substances that can force the closure of water supplies, fisheries, and other beneficial water uses.

After consideration of comments received and further evaluation of the legislative history, the Agency proposes to maintain the determination

of actual removability as set forth in the Advance Notice of Proposed Rulemaking of August 22, 1974, and cited above. In doing so, it is determined that all substances proposed (40 CFR Part 116) under Section 311(b)(2)(A) are not actually removable.

This regulation may be amended as necessary to reflect new information on the removability of hazardous substances.

Interested persons may participate in this rulemaking by submitting written comments or requests for information in triplicate to: Dr. C. Hugh Thompson, Chief, Hazardous Substances Branch, Criteria and Standards Division, Office of Water Planning and Standards, WH-595, Environmental Protection Agency, Washington, D.C. 20460.

A copy of all public comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. The Environmental Protection Agency information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before 60 calendar days after date of this publication will be considered.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

A number of criteria have been defined to determine which actions require an inflationary impact statement. The Agency's analysis of the potential economic impact of these regulations indicate that none of the criteria defining a major proposal have been met. Thus, it is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821 and that no inflationary impact statement is required.

/s/ Russell E. Train
Russell E. Train
Administrator

Dated: DEC 21 1975

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT.

Part 117 - DETERMINATION OF REMOVABILITY OF HAZARDOUS SUBSTANCES

117.1 Applicability

117.2 Definitions

117.3 Determination of Actual Removability

Authority: Sections 311(b)(2)(B)(i) and 501(a) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.).

117.1 APPLICABILITY

The regulations of this part make a determination under Section 311 (b)(2)(B)(i) of the Act as to the actual removability of substances designated under Section 311(b)(2)(A). This regulation applies to substances designated as hazardous under 40 CFR Part 116 when discharged into navigable waters or adjoining shorelines or the waters of the contiguous zone from vessels, onshore facilities or offshore facilities.

117.2 DEFINITIONS

Terms used in this part shall have the meanings as stated in 40 CFR Part 116 and as indicated below:

"The Act" means the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500), (33 U.S.C. 1251 et seq.);

"Remove" or "removal" refers to removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"Actually be removed" means the separation and isolation of discharged hazardous substances from all of the navigable waters of the U.S. and the contiguous zone by chemical, physical, or biological means.

117.3 DETERMINATION OF ACTUAL REMOVABILITY

The elements, compounds or their structural isomers, or mixtures thereof, designated as hazardous substances under 40 CFR Part 116 cannot actually be removed.

The determination that the designated substances cannot actually be removed by chemical, physical, or biological means does not relieve the discharger from damage mitigation liabilities under Sections 311(f) and 311(g) of the Act.

[FR Doc.75-34950 Filed 12-29-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY
(FRL 472-1)
[40 CFR Part 118]

DETERMINATION OF HARMFUL QUANTITIES FOR HAZARDOUS SUBSTANCES

Notice of Proposed Rulemaking

Notice is hereby given in accordance with 5 U.S.C. 553 that the Administrator, Environmental Protection Agency, under the authority contained in Section 311(b)(4) of the Federal Water Pollution Control Act Amendments of 1972 [33 U.S.C. 1251 et seq. (the Act)], and Executive Order 11735, proposes a new Part 118 of Title 40 of the Code of Federal Regulations which determines harmful quantities of those substances proposed (40 CFR Part 116) as hazardous under Section 311(b)(2)(A).

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) amended the Federal Water Pollution Control Act of 1970 (33 U.S.C. 1151 et seq.) to add a new Section 311(b)(4) of the Act which states:

> "The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful."

Executive Order 11735, dated August 3, 1973, delegated the authority of the President under Section 311(b)(4) to the Administrator of the Environmental Protection Agency.

This notice deals with "... hazardous substances, other than oil ..." as noted in Section 311(b)(2)(A). Regulations implementing the portion of Section 311(b)(4) dealing with oil are contained in 40 CFR Part 110. Part 110.3 of 40 CFR defines the harmful quantity of oil as:

> "...discharges of such quantities of oil into or upon the navigable waters of the United States or adjoining shorelines determined to be harmful to the public health or welfare of the United States, at all times and locations and under all circumstances and conditions, except as provided in Section 110.6 of this part, include discharges which:
>
> (a) Violate applicable water quality standards, or
>
> (b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines."

Oils are, in general, mixtures consisting of a number of discrete chemical compounds. There is considerable variation in both the number of these discrete compounds found in a given oil and in the proportion of each constituent, depending on origin and degree of refinement. As a consequence, the physical properties, chemical properties and toxicity of oils are somewhat variable. In contrast, hazardous substances, other than oil, are to be designated as "... elements and compounds ..." according to Section 311(b)(2)(A). By definition, different samples of a given element or a given compound display identical physical, chemical, and therefore toxicological properties, without regard to source.

Most oils have in common the ability to form surface sheens or to form sludges or emulsions in water. Damages attributed to these phenomena include the destruction of wildlife through contact with surface sheens or films, direct toxic effects to aquatic animals and plants by sludges, emulsions or soluble fractions, and the fouling of shorelines.

Although some of the substances considered for designation may share certain properties with oils, such as the ability to form surface sheens, this is not characteristic of the majority, and their environmental effects are not generally attributed to this behavior. Rather, the impact of non-oil spills most commonly observed is direct toxic action from soluble fractions.

In view of these differences between oils and other hazardous substances to be regulated under Section 311, this notice proposes a different method for determination of "harmful quantities" of hazardous substances other than oil.

The final promulgation of proposed 40 CFR Part 118 will activate Section 311(b)(5) which requires that discharges equal to or exceeding the harmful quantity be immediately reported to the appropriate agency of the United States government. The appropriate agency is proposed in 33 CFR Part 153 (Federal Register Vol. 39, No. 234, pp. 4189-4194, December 4, 1974). Section 311(b)(5) also provides for a criminal penalty of up to one year imprisonment, $10,000 fine, or both, for failure to meet the reporting requirements. Final promulgation activates Section 311(f) and 311(g) liabilities as well as Section 311(b)(6) civil

penalties for all hazardous substances. In addition, civil penalty provisions of Section 311(b)(2)(B)(iii) of the Act will be activated for those substances determined to be not actually removable under Section 311 (b)(2)(B)(i) (proposed 40 CFR Part 117).

Sections 311(b)(2)(A) and 311(b)(2)(B)(i) of the Act require that the Administrator designate hazardous substances and make a determination whether any such designated substance can actually be removed. On August 22, 1974, the Assistant Administrator for Water and Hazardous Materials published an Advance Notice of Proposed Rulemaking (Federal Register, Vol. 39, No. 164, Part IV, pp. 30466-30471). This Advance Notice set forth tentative criteria by which substances were considered for designation as hazardous, those substances under consideration, factors which influence removability, and an initial determination of the actual removability of substances currently under consideration. Public comment and data were requested on all aspects of the proposed action. The closing date for comments was October 15, 1974.

A number of substances listed in the August 22, 1974 Advance Notice of Proposed Rulemaking are not included in this notice due to public comment and data received. Most details concerning changes such as deletions, are presented in separate proposed rules for Designation of Hazardous Substances (proposed 40 CFR Part 116) and Determination of the Removability of Hazardous Substances (proposed 40 CFR Part 117). However, a number of additional comments were received on limitations to the applicability of the designation of hazardous substances. It is now considered most appropriate to limit the applicability

of this proposed rule and the proposed rule for Determination of the Units of Measurement and Rates of Penalty for Hazardous Substances (proposed 40 CFR Part 119).

The applicability stated in the Advance Notice of Proposed Rulemaking was as follows:

> "It is important to note that not all discharges of substances designated as hazardous will be subject to the enforcement provisions of section 311. Because section 311 applies only to discharges from vessels or facilities, a designation regulation would not apply to discharges from other sources such as agricultural land runoff, or irrigation return flows. The discharges being considered can be placed in two separate categories. The first relates to transportation and storage incidents in which there is normally no release of the substance except in the spill situation. The second relates to industrial production facilities in which a designated hazardous substance is released in quantities exceeding those of a permitted normally operating effluent. Periodic or continuous discharges are regulated under other provisions of the Act. Accordingly, the Agency is considering that the regulation would exclude from designation discharges of hazardous substances which are made: (a) in compliance with effluent limitations or guidelines established under sections 301, 302, 304, 306, and 307 of the Act; (b) in quantities not exceeding those identified for such substances in an application for an NPDES permit which has been issued pursuant to section 402 of the Act; (c) in compliance with permits issued under section 404 of the Act or sections 102 and 103 of the Marine Protection, Research Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); (d) from properly functioning marine sanitation flow-through devices certified by the United States Coast Guard pursuant to section 312 of the Act; or (e) in the course of a permitted use of a pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. sections 136 and through 136 y)."

Although most comments agreed with these exclusions, many pointed out that exclusion (b) created a potential conflict with the terms of the NPDES function under Section 402 of the Act. Only a few of the proposed hazardous substances are mentioned specifically in the NPDES

permits. For those constituents which are identified, the discharge permit cites an average mass per day limitation which is, in part, based on the production volume of the specific facility and are not monitored on a continuous basis. Maintaining the proposed language of exclusion (b) would, in effect, require the continuous monitoring of all listed substances. In fact, monitoring of some substances is simply not presently feasible.

Consequently, this proposed rule modifies the wording of exclusion (b) to read as follows:

"...in compliance with an NPDES permit which has been issued pursuant to Section 402 of the Act,...". General parameters contained in permits together with permit conditions based upon water quality considerations should, to a significant degree, control and limit discharges of hazardous substances.

A. Summary of Method for Determining Harmful Quantities

A procedure has been devised for determining harmful quantities of hazardous substances by modification of a system used by the Intergovernmental Maritime Consultative Organization (IMCO), a specialized agency in the United Nations system. Substances are divided into four categories on the basis of relative hazard to the environment. The smallest common commercial container size (one pound/454 grams) was then defined as the harmful quantity for all members of the most highly toxic category. Other categories were thereafter assigned harmful quantities on a proportional basis. If the upper aquatic toxicity limit of a category was ten times higher than the upper limit of the pre-

ceeding more toxic category, then the harmful quantity was set as ten times larger, and so forth.

B. General Considerations

This methodology is being proposed after detailed consideration of others which were finally rejected due to: excessive complexity; incomplete or conflicting data; difficulty visualized in implementation. The aternative methods are discussed in detail in Document EPA #440/9-75-005 a, b, c, d; Methodologies for Determining Harmful Quantities and Rates of Penalty for Hazardous Substances, (stock number 055-001-01028-1, available from: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, $10.00).

Section 311 is specific in its instruction to designate elements and compounds as hazardous substances. This has led to the development of methods for defining harmful quantities based on pure compound characteristics. The presence of additional materials in a mixture may affect toxicity through synergism, antagonism, addition or other interactive mechanisms. For these mixtures individual bioassays would be required to specify meaningful toxic levels. Such an approach is obviously not practicable since it is not possible to predict the combinations that might be involved. It is also not feasible to designate harmful quantities for all conceivable mixtures. Consequently, the approach proposed for dealing with mixtures or solutions is to assume that damages caused by individual constituents are additive. For a mixture or solution of substance X, substance Y and substance Z, etc., the weight of substance X is divided by the harmful quantity of pure substance X, the

weight of substance Y is divided by the harmful quantity of pure substance Y, and so forth. Next, the fractions derived in this fashion are added. If the total equals or exceeds unity, then the harmful quantity of the mixture or solution has been equaled or exceeded in the discharge.

The harm produced by the introduction of any pollutant to water is dependent upon the resulting concentration of that material in the water and upon receiving water characteristics. Determining harmful quantities thus requires some evaluation of probabilistic damage or harm to representative water bodies. Variations in water quality and other factors limit the practicality of regulating discharges in any but relative terms. The method set forth in this document is intended to deal with typical or average conditions in a way encouraging notification of hazardous substance discharges and to provide for equitable enforcement which, in turn, is intended to lead to the overall program goal of prevention.

Due to the present lack of compulsory reporting under Section 311(b)(5), the full magnitude of the problem of hazardous substance discharges is not fully understood. While many chemical users, producers, and transporters have voluntarily reported spills of materials they considered hazardous, no generally accepted list was available for guidance. This portion of the problem will be corrected by promulgation of 40 CFR Part 116, which provides such a list.

Another goal of this proposed rule is that it is intended to prompt reporting of as great a proportion of the total number of discharges as

possible. The establishment of harmful quantities for designated hazardous substances activates a compulsory notification requirement under Section 311(b)(5) for discharges equal to or greater than the harmful quantity. The intent of the Agency is to assess civil penalties under Section 311(b)(2)(B)(iii) only for those discharges which equal or exceed the harmful quantity. Voluntary reporting is thus encouraged in hopes of obtaining more complete knowledge of the extent of the hazardous substance problem.

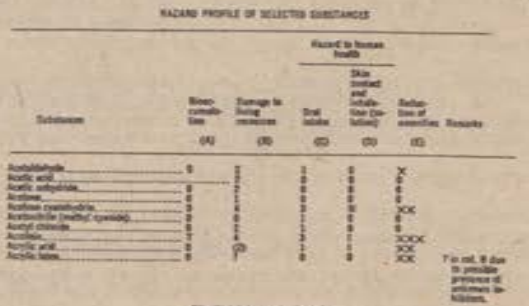
C. Proposed Determination of Harmful Quantity

A procedure was developed for determining harmful quantities based on a proposed hazardous material classification system found in Annex II of the International Conference on Marine Pollution, 1973[1], which has been submitted by the Intergovernmental Maritime Consultative Organization (IMCO) to member nations for adoption. The basic system was intended, in part, to regulate operational discharges of ships transporting noxious substances in bulk. These materials are categorized on the basis of a profile of relative "hazard potential." The concept of harmful quantity is not present in the basic system. Consequently, modifications are necessary to meet the requirements of Section 311 and will be spelled out following review of the original system.

1. "Hearing Before the Committee on Commerce on 1973 IMCO Conference on Marine Pollution from Ships, November 1973, U.S. Senate, 93rd Congress, First Session Series 93-52."

1. Basic System

The chemicals originally considered under the basic System were "all noxious and hazardous substances other than oil"[1] as defined by the 1954 Oil Pollution Convention. The basic system grouped these noxious materials with respect to the five "hazard potentials": (1) bioaccumulation, (2) damage to living resources, (3) hazards to human health (oral intake), (4) hazards to human health (external exposure), and (5) reduction of amenities, based upon the data and opinions of the Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP)[2]. A partial extract of the profiling system is reproduced from page 90, and the associated legend is also reproduced from page 98 of reference 1.



HAZARD PROFILE OF SELECTED SUBSTANCES

Substance	Bioaccumulation (1)	Damage to living resources (2)	Hazard to human health: Oral intake (3)	Hazard to human health: Skin contact and inhalation (by fallout) (4)	Reduction of amenities (5)	Remarks
Acetaldehyde	0				X	
Acetic acid					X	
Acetic anhydride	0				X	
Acetone	0				0	
Acetone cyanohydrin	0				XX	
Acetonitrile (methyl cyanide)	0				0	
Acetyl chloride	0				X	
Acrolein	0				XXX	
Acrylic acid	0				XX	
Acrylic latex	0				XX	

(PARTIAL TABLE)

2. This Group is jointly sponsored by the specialized agencies of the United Nations system including, UN, FAO, UNESCO, WHO, WMO, IMCO, and IAEA.

LEGEND TO THE HAZARD PROFILES

Column A—Bioaccumulation:
+ Bioaccumulated and liable to produce a hazard to aquatic life or human health.
O Not known to be significantly bioaccumulated.
Z Short retention of the order of one week or less.
T Liable to produce tainting of seafood.

Column B—Damage to living resources:

Ratings		TLm (p/m
4	Highly toxic	<1
3	Moderately toxic	1-10
2	Slightly toxic	10-100
1	Practically nontoxic	100-1,000
0	Nonhazardous	≥1,000
BOD	Problem caused primarily by high oxygen demand	
D	Deposits liable to blanket the seafloor	

Column C—Hazard to human health, oral intake:

Ratings		LD50 mg/kg
4	Highly Hazardous	<5
3	Moderately hazardous	5-50
2	Slightly hazardous	50-500
1	Practically nonhazardous	500-5,000
0	Nonhazardous	≥5,000

Column D—Hazard to human health, skin contact and inhalation (solution):
H Hazardous (solution).
S Slightly hazardous (solution).
0 Nonhazardous (solution).

Column E—Reduction of amenities:

Ratings
xxx Highly objectionable because of persistency, smell, or poisonous or irritant characteristics; beaches liable to be closed.
xx Moderately objectionable because of the above characteristics, but short-term effects leading to temporary interference with use of beaches.
x Slightly objectionable, no interference with use of beaches.
0 No problem.

All Columns: Ratings in brackets, ( ), indicate insufficient data available to the Panel on specific substances, hence extrapolation was required.

2. Modification of the Basic System

The advantages of domestic regulations which are compatible with an international convention are readily apparent. Also, from an operational viewpoint, a method which considers groups of chemicals rather than individual chemicals simplifies reporting. However, a number of modifications to the basic system must be made to satisfy the requirements of Section 311.

The modifications required are as follows:

a). Hazardous materials already categorized must be reexamined in terms of fresh and salt water hazard potential and the latest available data.

b). Materials not previously considered by IMCO must be categorized.

c). Small modifications must be made to facilitate more quantitative and objective categorization and to further clarify the term "additional factors in the hazard profile" used by IMCO. To this end, the guidelines in Table I for categorization have been modified to read as found below.

d). The final modification is necessary due to the concept of harmful quantity [from Section 311(b)(4)] which is not found in the basic system. A mechanism must be devised for deriving a consistent set of harmful quantities based on quantitative differentiation between categories. To this end, aquatic toxicity (96-hr. LC50) was selected since it is the only criterion common to all categories in the basic system and is the only one which permits a quantitative comparison between categories. Otherwise, it becomes necessary to subjectively evaluate between different hazard potentials, such as the relative hazards of bioaccumulation as opposed to reduction of amenities.

The hazard profiles described above were then used by a committee of the Intergovernmental Maritime Consultative Organization (IMCO) to assign the materials to one of several categories as shown in the partial list below. (Reproduction from page 157 of reference 1.)

—LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Substance	U.N. number	Pollution category for operational discharge (regulation 5 of annex II)	Residual concentration (percent by weight) (Regulation 5(1) of annex II) outside special areas	(Regulation 5(1) of annex II) within special areas
(1)	(2)	(3a)	(3b)	(3c)
Acetaldehyde	1089	C		
Acetic acid	2789	C		
Acetic anhydride	1715	C		
Acetone	1090	D		
Acetone cyanohydrin	1541	A	0.1	0.05
Acetyl chloride	1717	C		
Acrylamide	1092	A	.1	.05
Acrylic acid		C		
Acrylonitrile	1093	B		
Adiponitrile		D		

This categorization was done according to the guidelines and tabulations from page 156 in reference 1 reproduced below.

GUIDELINES FOR THE CATEGORIZATION OF NOXIOUS LIQUID SUBSTANCES

Category A.—Substances which are bioaccumulated and liable to produce a hazard to aquatic life or human health; or which are highly toxic to aquatic life (as expressed by a Hazard Rating 4, defined by a TLm less than 1 ppm); and additionally certain substances which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 or more, but less than 10 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category B.—Substances which are bioaccumulated with a short retention of the order of one week or less; or which are liable to produce tainting of the sea food; or which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 ppm or more, but less than 10 ppm); and additionally certain substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 ppm or more, but less than 100 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category C.—Substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 or more, but less than 100 ppm); and additionally certain substances which are practically non-toxic to aquatic life (as expressed by a Hazard Rating 1, defined by a TLm of 100 ppm or more, but less than 1,000 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category D.—Substances which are practically non-toxic to aquatic life (as expressed by a hazard rating 1, defined by a TLm of 100 ppm or more, but less than 1,000 ppm); or causing deposits blanketing the seafloor with a high biochemical oxygen demand (BOD); or highly hazardous to human health, with an LD_{50} of less than 5 mg/kg; or produce moderate reduction of amenities because of persistency, smell or poisonous or irritant characteristics, possibly interfering with use of beaches; or moderately hazardous to human health, with an LD_{50} of 5 mg/kg or more, but less than 50 mg/kg and produce slight reduction of amenities.

Other Liquid Substances (for the purposes of Regulation 4 of this Annex).—Substances other than those categorised in Categories A, B, C and D above.

TABLE I
EPA GUIDELINES
FOR CATEGORIZING HAZARDOUS SUBSTANCES

Category A includes substances which are;

(a) bioaccumulated and liable to produce a hazard to aquatic life or human health (Rating +), or

(b) highly toxic to aquatic life (Rating 4), or

(c) moderately toxic to aquatic life (Rating 3) and also liable to produce tainting of sea food (Rating T), or

(d) bioaccumulated with a short retention of the order of one week or less (Rating Z) while also being moderately toxic to aquatic life (Rating 3) and causing severe reduction of amenities (Rating XXX).

Category B includes substances which are;

(a) bioaccumulated with a short retention of the order of one week or less (Rating Z), or

(b) liable to produce tainting of sea food (Rating T), or

(c) moderately toxic to aquatic life (Rating 3).

Category C includes substances which;

(a) are slightly toxic to aquatic life (Rating 2), or

(b) cause serious reduction of amenities described as highly objectionable because of persistency, smell, irritant or poisonous characteristics (Rating XXX), or

(c) are practically non-toxic to aquatic life (Rating 1) while also being at least moderately hazardous to human health (oral intake) (Rating 4 or 3) and causing moderate reduction of amenities (Rating XX).

Category D includes substances which;

(a) are practically non-toxic to aquatic life (Rating 1), or

(b) are highly hazardous to human health (oral intake), (Rating 4), or

(c) cause deposits blanketing the sea floor with a high biochemical oxygen demand (Rating BOD) and produce moderate reduction of amenities (Rating XX), or

(d) are moderately hazardous to human health (oral intake), (Rating 3), and also cause a slight reduction of amenities (Rating X).

The smallest container used in commerce for a typical category A material, for example an inorganic cyanide, is a one-pound (0.454 kilogram) bottle. Consequently, this amount has been chosen as the "harmful quantity" of all category A materials. Other categories are thereafter assigned harmful quantities on a proportional basis as shown in Table II. Basically, if the upper aquatic toxicity limit of a category is ten times higher than the upper limit of the preceeding, more toxic category, then the harmful quantity is set as ten times larger, and so forth.

TABLE II
EPA CATEGORIES
FOR HARMFUL QUANTITY DETERMINATION

Category	Representative Range	Harmful Quantity lb. (kg.)
A	LC50* < 1 ppm	1.0 (0.454)
B	1 ppm ≤ LC50 < 10 ppm	10 (4.54)
C	10 ppm ≤ LC50 < 100 ppm	100 (45.4)
D**	100 ppm ≤ LC50 ≤ 500 ppm	500 (227)

The representative range means that substances in Category A have LC50 values of less than 1 ppm, Category B substances have LC50 values of 1 ppm or greater up to 10 ppm, Category C substances have LC50 values of 10 ppm or greater up to 100 ppm, and Category D substances have LC50 values of 100 ppm up to and including 500 ppm.

* LC50 means that concentration of material which is lethal to one-half of the test population of aquatic animals upon continuous exposure for 96 hours or less.

** The basic IMCO criterion for Category D aquatic toxicity is 96-hr. LC50 values of 100-1000 ppm. The selection criteria for materials proposed in 40 CFR Part 116 eliminated any material with a 96-hr. LC50 in excess of 500 ppm. Thus, the representative toxicity range for Category D proposed here has been changed to 100-500 ppm.

D. Special Waters

Special waters are proposed to be defined as those waters which are: (1) drinking water reservoirs; (2) part of a designated National Wildlife Refuge System (50 CFR Part 25); or (3) part of a designated National Forest Wilderness, a designated National Park System, or a designated National Wilderness Preserve System (43 CFR Part 19.2). Because of their unique value, it is proposed that any quantity of a substance designated in 40 CFR Part 116 constitutes a harmful quantity when discharged into these special waters.

The EPA category and harmful quantity determined for each substance proposed as hazardous are listed in the proposed rule. Interested persons may participate in this rulemaking by submitting written comments or requests for information in triplicate to: Dr. C. Hugh Thompson, Chief, Hazardous Substances Branch, (WH-595) Environmental Protection Agency, Waterside Mall, Room 2824, 401 M Street, S.W., Washington, D.C. 20460.

The Agency is particularly interested in comments relative to:

1). the methods employed for arriving at harmful quantites,
2). the potential number of discharges of listed substances in excess of the harmful quantity,
3). the potential impact on producers, transporters, and handlers of hazardous substances,
4). the workability of the proposed regulation and,
5). the definition of "special waters".

All comments received on or before 60 calendar days after date of this publication, will be considered.

A copy of all comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. (40 CFR Part 2 provides that a reasonable fee may be charged for copying.)

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

A number of criteria have been defined to determine which actions require an inflationary impact statement. The Agency's analysis of the potential economic impact of these regulations indicate that none of the criteria defining a major proposal have been met. Thus, it is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order 11821 and that no inflationary impact statement is required.

/s/ Russell E. Train
Russell E. Train
Administrator

Dated: DEC 22 1975

Irene Noble
CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT.

Part 118 - DETERMINATION OF HARMFUL QUANTITIES FOR HAZARDOUS SUBSTANCES

118.1 Applicability
118.2 Abbreviations
118.3 Definitions
118.4 Determination of Harmful Quantities
118.5 Demonstration Projects
118.6 Notice
118.7 Penalties
118.8 Liabilities

Authority: Sections 311(b)(4) and 501(a) of the Federal Water Pollution Control Act of 1972, [33 U.S.C. 1251 et seq., (the Act)] and Executive Order 11735.

118.1 APPLICABILITY

The regulation of this part makes a determination of the harmful quantity of substances designated as hazardous in 40 CFR Part 116. The regulation applies to designated substances in quantities equal to or greater than those set forth below, when discharged into navigable waters or adjoining shorelines or the waters of the contiguous zone from vessels and onshore and offshore facilities, except when the owner or operator can show such discharges are made (1) in compliance with requirements of Sections 301, 302, 304, 306, 307 of the Act, and in compliance with an NPDES permit which has been issued pursuant to Section 402 of the Act, (2) in compliance with permits issued under Section 404 of the Act or Sections 102 and 103 of the Marine Protection, Research and Sanctuaries Act of 1972, (33 U.S.C. 1401 et seq.), (3) in compliance with approved water treatment plant operations as specified

by local, State or Federal health regulations pertaining to safe drinking water, (4) from properly functioning marine sanitation flow-through devices certified by the United States Coast Guard pursuant to Section 312 of the Act, or (5) in the course of a permitted use of a pesticide registered under 40 CFR Part 162 (Federal Register, Vol., 40, No. 129, Part II, pp. 28242-28286, July 3, 1975) by authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973, P.L. 92-516, 7 U.S.C. 136 et seq.).

118.2 ABBREVIATIONS

lb = pound

kg = kilogram

HQ = harmful quantity

118.3 DEFINITIONS

As used in this part, all terms shall have the same meaning as used in Section 311 of the Act and 40 CFR Parts 116 and 117.

118.4 DETERMINATION OF HARMFUL QUANTITIES

The quantities listed with each substance name in Table 118.4 are determined to be the harmful quantities for those substances, except when discharged into "special waters". Those waters which are (1) drinking water reserviors, (2) part of a designated National Wildlife Refuge (50 CFR Part 25), or (3) part of a designated National Forest Wilderness, a designated National Park, or a designated National Wilderness Preserve (43 CFR Part 19.2) are defined as "special

waters". Because of their unique value, any quantity of a substance designated in 40 CFR Part 116 constitutes a harmful quantity when discharged into these special waters.

Harmful quantities of mixtures or solutions are considered additive based upon proportions of the individual elements or compounds as follows. For a mixture or solution of substance X, substance Y, and substance Z, etc., the weight of substance X discharged is divided by the harmful quantity of pure substance X, the weight of substance Y discharged is divided by the harmful quantity of pure substance Y, and so forth. Next, the fractions so derived are added. If the total equals or exceeds unity, then the harmful quantity of the mixture or solution has been equaled or exceeded.

118.5 DEMONSTRATION PROJECTS

Notwithstanding any other provisions of this part, the Administrator of the Environmental Protection Agency may permit, on a case-by-case basis, the discharge of harmful quantities of designated hazardous substances, other than oil, into or upon the navigable waters or adjoining shorelines or the waters of the contiguous zone in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of hazardous substance pollution.

118.6 NOTICE

Any person in charge of a vessel or an onshore or an offshore facility shall, as soon as he has knowledge of any discharge of designated hazardous substances, other than oil, from such vessel or facility in

excess of the harmful quantity determined by this part, immediately notify the appropriate agency of the United States Government of such discharge. Notice shall be given in accordance with such procedures as the Secretary of Transportation may prescribe and as set forth in 33 CFR Part 153 (proposed revision published December 4, 1974 in the Federal Register, Vol. 139, No. 234, pp. 4189-4194).

118.7 PENALTIES

An owner or operator failing to immediately notify the United States Government of discharges equal to or greater than those quantities determined to be harmful as set forth in this part may be subject to criminal penalties of not more than $10,000 or imprisonment for not more than one year or both under Section 311(b)(5).

An owner or operator responsible for the discharge of substances designated in 40 CFR Part 116 in quantities equal to or exceeding the harmful quantities established in this part may be assessed a civil penalty of up to $5,000 under Section 311 (b)(6).

An owner or operator responsible for the discharge of substances designated in 40 CFR Part 116 and determined to be not actually removable in 40 CFR Part 117 in quantities equal to or exceeding the harmful quantities established in this part may be subject to a civil penalty assessed under Section 311(b)(2)(B)(iii) as set forth in 40 CFR Part 119.

118.8 LIABILITIES

Subject to the limits of liability found in Sections 311(f) and (g), the

owner or operator of any vessel or onshore or offshore facility from which a hazardous substance designated in 40 CFR Part 116 is discharged in quantities equal to or exceeding harmful quantities determined by this part, shall be liable to the United States Government for the actual costs incurred under Section 311(c) for the removal of such substance. Removal refers to removal of the hazardous substance from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

TABLE 118.4
HARMFUL QUANTITIES OF HAZARDOUS SUBSTANCES

The first number under the column headed "HQ" is the harmful quantity in pounds. The number in parentheses is the metric equivalent in kilograms. The column headed "Category" lists the EPA Category associated with each substance.

Material	Category	HQ in lb (kg)
Acetaldehyde	C	100 (45.4)
Acetic Acid	C	100 (45.4)
Acetic Anhydride	C	100 (45.4)
Acetone Cyanohydrin	C	100 (45.4)
Acetyl Bromide	D	500 (227)
Acetyl Chloride	D	500 (227)
Acrolein	A	1 (0.454)
Acrylonitrile	C	100 (45.4)
Adiponitrile	D	500 (227)
Aldrin	A	1 (0.454)
Allyl Alcohol	B	10 (4.54)
Allyl Chloride	C	100 (45.4)
Aluminum Fluoride	D	500 (227)
Aluminum Sulfate	D	500 (227)
Ammonia	C	100 (45.4)
Ammonium Acetate	D	500 (227)
Ammonium Benzoate	D	500 (227)
Ammonium Bicarbonate	D	500 (227)
Ammonium Bichromate	D	500 (227)

Material	Category	HQ in lb (kg)
Ammonium Bifluoride	D	500 (227)
Ammonium Bisulfite	D	500 (227)
Ammonium Bromide	D	500 (227)
Ammonium Carbamate	D	500 (227)
Ammonium Carbonate	D	500 (227)
Ammonium Chloride	D	500 (227)
Ammonium Chromate	D	500 (227)
Ammonium Citrate	D	500 (227)
Ammonium Fluoborate	D	500 (227)
Ammonium Fluoride	D	500 (227)
Ammonium Hydroxide	C	100 (45.4)
Ammonium Hypophosphite	D	500 (227)
Ammonium Iodide	D	500 (227)
Ammonium Nitrate	D	500 (227)
Ammonium Oxalate	D	500 (227)
Ammonium Pentaborate	D	500 (227)
Ammonium Persulfate	D	500 (227)
Ammonium Silicofluoride	C	100 (45.4)
Ammonium Sulfamate	D	500 (227)
Ammonium Sulfide	D	500 (227)
Ammonium Sulfite	D	500 (227)
Ammonium Tartrate	D	500 (227)
Ammonium Thiocyanate	D	500 (227)
Ammonium Thiosulfate	D	500 (227)
Amyl Acetate	C	100 (45.4)
Aniline	C	100 (45.4)

Material	Category	HQ in lb (kg)
Antimony Pentachloride	C	100 (45.4)
Antimony Pentafluoride	C	100 (45.4)
Antimony Potassium Tartrate	C	100 (45.4)
Antimony Tribromide	C	100 (45.4)
Antimony Trichloride	C	100 (45.4)
Antimony Trifluoride	C	100 (45.4)
Antimony Trioxide	C	100 (45.4)
Arsenic Acid	C	100 (45.4)
Arsenic Disulfide	C	100 (45.4)
Arsenic Pentoxide	B	10 (4.54)
Arsenic Trichloride	C	100 (45.4)
Arsenic Trioxide	B	10 (4.54)
Arsenic Trisulfide	B	10 (4.54)
Barium Cyanide	A	1 (0.454)
Benzene	C	100 (45.4)
Benzoic Acid	D	500 (227)
Benzonitrile	C	100 (45.4)
Benzoyl Chloride	D	500 (227)
Benzyl Chloride	D	500 (227)
Beryllium Chloride	D	500 (227)
Beryllium Fluoride	C	100 (45.4)
Beryllium Nitrate	C	100 (45.4)
Butyl Acetate	C	100 (45.4)
Butylamine	C	100 (45.4)
Butyric Acid	D	500 (227)

Material	Category	HQ in lb (kg)
Cadmium Acetate	A	1 (0.454)
Cadmium Bromide	A	1 (0.454)
Cadmium Chloride	A	1 (0.454)
Calcium Arsenate	C	100 (45.4)
Calcium Arsenite	C	100 (45.4)
Calcium Carbide	D	500 (227)
Calcium Chromate	D	500 (227)
Calcium Cyanide	A	1 (0.454)
Calcium Dodecylbenzene-sulfonate	B	10 (4.54)
Calcium Hydroxide	D	500 (227)
Calcium Hypochlorite	A	1 (0.454)
Calcium Oxide	D	500 (227)
Carbaryl	B	10 (4.54)
Captan	A	1 (0.454)
Carbon Disulfide	C	100 (45.4)
Chlordane	A	1 (0.454)
Chlorine	A	1 (0.454)
Chlorobenzene	B	10 (4.54)
Chloroform	B	10 (4.54)
Chlorosulfonic Acid	C	100 (45.4)
Chromic Acetate	D	500 (227)
Chromic Acid	D	500 (227)
Chromic Sulfate	D	500 (227)
Chromous Chloride	D	500 (227)
Chromyl Chloride	D	500 (227)

Material	Category	HQ in lb (kg)
Cobaltous Bromide	C	100 (45.4)
Cobaltous Fluoride	C	100 (45.4)
Cobaltous Formate	C	100 (45.4)
Cobaltous Sulfamate	C	100 (45.4)
Coumaphos	A	1 (0.454)
Cresol	B	10 (4.54)
Cupric Acetate	B	10 (4.54)
Cupric Acetoarsenite	B	10 (4.54)
Cupric Chloride	B	10 (4.54)
Cupric Formate	B	10 (4.54)
Cupric Glycinate	B	10 (4.54)
Cupric Lactate	B	10 (4.54)
Cupric Nitrate	B	10 (4.54)
Cupric Oxalate	B	10 (4.54)
Cupric Subacetate	B	10 (4.54)
Cupric Sulfate	B	10 (4.54)
Cupric Sulfate Ammoniated	B	10 (4.54)
Cupric Tartrate	B	10 (4.54)
Cuprous Bromide	B	10 (4.54)
Cyanogen Chloride	A	1 (0.454)
Cyclohexane	C	100 (45.4)
2,4-D Acid	B	10 (4.54)
2,4-D Esters	B	10 (4.54)
Dalapon	B	10 (4.54)
DDT	A	1 (0.454)

Material	Category	HQ in lb (kg)
Diazinon	A	1 (0.454)
Dicamba	C	100 (45.4)
Dichlobenil	C	100 (45.4)
Dichlone	A	1 (0.454)
Dichlorvos	A	1 (0.454)
Dieldrin	A	1 (0.454)
Diethylamine	C	100 (45.4)
Dimethylamine	C	100 (45.4)
Dinitrobenzene	C	100 (45.4)
Dinitrophenol	B	10 (4.54)
Diquat	C	100 (45.4)
Disulfoton	A	1 (0.454)
Diuron	B	10 (4.54)
Dodecylbenzenesulfonic Acid	B	10 (4.54)
Dursban	A	1 (0.454)
Endosulfan	A	1 (0.454)
Endrin	A	1 (0.454)
Ethion	A	1 (0.454)
Ethylbenzene	C	100 (45.4)
Ethylenediamine	C	100 (45.4)
EDTA	D	500 (227)
Ferric Ammonium Citrate	C	100 (45.4)
Ferric Ammonium Oxalate	C	100 (45.4)
Ferric Chloride	C	100 (45.4)

Material	Category	HQ in lb (kg)
Ferric Fluoride	C	100 (45.4)
Ferric Nitrate	C	100 (45.4)
Ferric Sulfate	C	100 (45.4)
Ferrous Ammonium Sulfate	C	100 (45.4)
Ferrous Chloride	C	100 (45.4)
Ferrous Sulfate	C	100 (45.4)
Formaldehyde	C	100 (45.4)
Formic Acid	D	500 (227)
Fumaric Acid	D	500 (227)
Furfural	C	100 (45.4)
Guthion	A	1 (0.454)
Heptachlor	A	1 (0.454)
Hydrochloric Acid	D	500 (227)
Hydrofluoric Acid	D	500 (227)
Hydrogen Cyanide	A	1 (0.454)
Hydroxylamine	D	500 (227)
Isoprene	C	100 (45.4)
Isopropanolamine Dodecylbenzenesulfonate	B	10 (4.54)
Kelthane	C	100 (45.4)
Lead Acetate	D	500 (227)
Lead Arsenate	D	500 (227)
Lead Chloride	D	500 (227)
Lead Fluoborate	D	500 (227)
Lead Fluoride	C	100 (45.4)
Lead Iodide	D	500 (227)

Material	Category	HQ in lb (kg)
Lead Nitrate	D	500 (227)
Lead Stearate	D	500 (227)
Lead Sulfate	D	500 (227)
Lead Sulfide	C	100 (45.4)
Lead Tetraacetate	D	500 (227)
Lead Thiocyanate	D	500 (227)
Lead Thiosulfate	D	500 (227)
Lead Tungstate	D	500 (227)
Lindane	A	1 (0.454)
Lithium Bichromate	D	500 (227)
Lithium Chromate	D	500 (227)
Malathion	A	1 (0.454)
Maleic Acid	D	500 (227)
Maleic Anhydride	D	500 (227)
Mercuric Acetate	A	1 (0.454)
Mercuric Cyanide	A	1 (0.454)
Mercuric Nitrate	A	1 (0.454)
Mercuric Sulfate	A	1 (0.454)
Mercuric Thiocyanate	A	1 (0.454)
Mercurous Nitrate	A	1 (0.454)
Methoxychlor	A	1 (0.454)
Methyl Mercaptan	B	10 (4.54)
Methyl Methacrylate	D	500 (227)
Methyl Parathion	B	10 (4.54)
Mevinphos	A	1 (0.454)
Monoethylamine	C	100 (45.4)

Material	Category	HQ in lb (kg)
Monomethylamine	C	100 (45.4)
Naled	A	1 (0.454)
Naphthalene	B	10 (4.54)
Naphthenic Acid	A	1 (0.454)
Nickel Ammonium Sulfate	D	500 (227)
Nickel Chloride	D	500 (227)
Nickel Formate	C	100 (45.4)
Nickel Hydroxide	C	100 (45.4)
Nickel Nitrate	D	500 (227)
Nickel Sulfate	D	500 (227)
Nitric Acid	C	100 (45.4)
Nitrobenzene	D	500 (227)
Nitrogen Dioxide	C	100 (45.4)
Nitrophenol	B	10 (4.54)
Paraformaldehyde	C	100 (45.4)
Parathion	A	1 (0.454)
Pentachlorophenol	A	1 (0.454)
Phenol	B	10 (4.54)
Phosgene	D	500 (227)
Phosphoric Acid	D	500 (227)
Phosphorous	A	1 (0.454)
Phosphorous Oxychloride	D	500 (227)
Phosphorous Pentasulfide	C	100 (45.4)
Phosphorous Trichloride	D	500 (227)
Polychlorinated Biphenyls	A	1 (0.454)

Material	Category	HQ in lb (kg)
Potassium Arsenate	C	100 (45.4)
Potassium Arsenite	C	100 (45.4)
Potassium Bichromate	D	500 (227)
Potassium Chromate	D	500 (227)
Potassium Cyanide	A	1 (0.454)
Potassium Hydroxide	C	100 (45.4)
Potassium Permanganate	B	10 (4.54)
Propionic Acid	D	500 (227)
Propionic Anhydride	D	500 (227)
Propyl Alcohol	D	500 (227)
Pyrethrins	C	100 (45.4)
Quinoline	A	1 (0.454)
Resorcinol	B	10 (4.54)
Selenium Oxide	C	100 (45.4)
Sodium	C	100 (45.4)
Sodium Arsenate	C	100 (45.4)
Sodium Arsenite	C	100 (45.4)
Sodium Bichromate	D	500 (227)
Sodium Bifluoride	D	500 (227)
Sodium Bisulfite	D	500 (227)
Sodium Chromate	D	500 (227)
Sodium Cyanide	A	1 (0.454)
Sodium Dodecylbenzene-sulfonate	B	10 (4.54)
Sodium Fluoride	D	500 (227)
Sodium Hydrosulfide	D	500 (227)

Material	Category	HQ in lb (kg)
Sodium Hydroxide	C	100 (45.4)
Sodium Hypochlorite	A	1 (0.454)
Sodium Methylate	C	100 (45.4)
Sodium Nitrite	B	10 (4.54)
Sodium Phosphate Monobasic	D	500 (227)
Sodium Phosphate Dibasic	D	500 (227)
Sodium Phosphate Tribasic	D	500 (227)
Sodium Selenite	C	100 (45.4)
Sodium Sulfide	C	100 (45.4)
Stannous Fluoride	D	500 (227)
Strontium Chromate	D	500 (227)
Strychnine	C	100 (45.4)
Styrene	C	100 (45.4)
Sulfuric Acid	C	100 (45.4)
Sulfur Monochloride	D	500 (227)
2,4,5-T Acid	A	1 (0.454)
2,4,5-T Esters	A	1 (0.454)
TDE	A	1 (0.454)
Tetraethyl Lead	A	1 (0.454)
Tetraethyl Pyrophosphate	B	10 (4.54)
Toluene	C	100 (45.4)
Toxaphene	A	1 (0.454)
Trichlorfon	B	10 (4.54)
Trichlorophenol	A	1 (0.454)

Material	Category	HQ in lb (kg)
Triethanolamine Dodecylbenzenesulfonate	B	10 (4.54)
Triethylamine	C	100 (45.4)
Trimethylamine	C	100 (45.4)
Uranium Peroxide	D	500 (227)
Uranyl Acetate	D	500 (227)
Uranyl Nitrate	D	500 (227)
Uranyl Sulfate	D	500 (227)
Vanadium Pentoxide	C	100 (45.4)
Vanadyl Sulfate	C	100 (45.4)
Vinyl Acetate	C	100 (45.4)
Xylene	C	100 (45.4)
Xylenol	C	100 (45.4)
Zectran	C	100 (45.4)
Zinc Acetate	C	100 (45.4)
Zinc Ammonium Chloride	C	100 (45.4)
Zinc Bichromate	C	100 (45.4)
Zinc Borate	C	100 (45.4)
Zinc Bromide	C	100 (45.4)
Zinc Carbonate	C	100 (45.4)
Zinc Chloride	C	100 (45.4)
Zinc Cyanide	A	1 (0.454)
Zinc Fluoride	C	100 (45.4)
Zinc Formate	C	100 (45.4)
Zinc Hydrosulfite	C	100 (45.4)
Zinc Nitrate	C	100 (45.4)

Material	Category	HQ in lb (kg)
Zinc Phenolsulfonate	C	100 (45.4)
Zinc Phosphide	C	100 (45.4)
Zinc Potassium Chromate	C	100 (45.4)
Zinc Silicofluoride	C	100 (45.4)
Zinc Sulfate	C	100 (45.4)
Zinc Sulfate Monohydrate	C	100 (45.4)
Zirconium Acetate	D	500 (227)
Zirconium Nitrate	D	500 (227)
Zirconium Oxychloride	D	500 (227)
Zirconium Potassium Fluoride	D	500 (227)
Zirconium Sulfate	D	500 (227)
Zirconium Tetrachloride	D	500 (227)

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ENVIRONMENTAL PROTECTION AGENCY

(FRL 472-2

[40 CFR Part 119]

DETERMINATION OF UNITS OF MEASUREMENT AND RATES OF PENALTY FOR HAZARDOUS SUBSTANCES

Notice of Proposed Rulemaking

Notice is hereby given in accordance with 5 U.S.C. 553 that the Administrator, Environmental Protection Agency, under authority contained in Section 311(b)(2)(B)(iv) of the Federal Water Pollution Control Act Amendments of 1972, [33 U.S.C. 1251 et seq., (the Act)], proposes to create a new Part 119 of Title 40 of the Code of Federal Regulations, determining units of measurement and rates of penalty to be applied for the assessment of civil penalties under Section 311(b)(2)(B)(iii)(bb) of the Act for discharges of non-removable hazardous substances.

The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) amended the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.) to add a new Section 311, which provides in subsection 311(b)(2)(B)(iv) as follows:

> "The Administrator shall establish by regulation, for each hazardous substance designated under subparagraph (A) of this paragraph, and within 180 days of the date of such designation, a unit of measurement based upon the usual trade practice and, for the purpose of determining the penalty under clause (iii)(bb) of this subparagraph, shall establish for each such unit a fixed monetary amount which shall be not less than $100 nor more than $1,000 per unit. He shall establish such fixed amount based on the toxicity, degradability, and dispersal characteristics of the substance."

This notice deals with "... hazardous substances, other than oil..." as noted in Section 311(b)(2)(A). Sections 311(b)(2)(A) and 311(b)(2)(B)(i) of the Act require that the Administrator designate hazardous substances and determine whether any such designated substance can actually be removed. Section 311(b)(4) mandates a determination of the harmful quantity of each designated substance. The designation of hazardous substances, determination of their removability, and establishment of harmful quantities are published as proposed rules concurrently with this notice as Parts 116, 117, and 118 respectively.

A. General Considerations

1. Mixtures

Section 311 specifically requires that elements and compounds be designated as hazardous substances. This has led to the development of methods for defining harmful quantities and rates of penalty based on pure compound characteristics. The presence of additional materials may affect toxicity through synergism, antagonism, addition or other interactive mechanisms. For these mixtures individual bioassays would be required to specify toxic levels of the specific mixture discharged into the specific receiving water body. Such an approach is obviously not practicable since it is not possible to predict the combinations that might be involved. It is also not feasible to designate harmful quantities and rates of penalty for all conceivable mixtures. Consequently, the approach proposed for dealing with discharges of mixtures or solutions is to assume that damages caused by individual constituents are additive. For a mixture or solution of substance X, substance Y, and substance Z, etc., the rate of penalty will be the sum of

the rates for individual hazardous components if the quantity discharged equals or exceeds the harmful quantity for the mixture (40 CFR Part 118).

2. Harmful Quantities

In brief, the method selected for determination of harmful quantities involves modification of a system used in the International Convention for the Prevention of Pollution from Ships, 1973[1], by the Intergovernmental Maritime Consultative Organization (IMCO). Substances are divided into four categories on the basis of relative hazard to the environment. The smallest common commercial container size was then defined as the harmful quantity for all substances in the most toxic EPA harmful quantity category. Other categories were thereafter assigned harmful quantities on a proportional basis. If the upper aquatic toxicity limit of an EPA category was ten times higher than the upper limit of the preceeding, more toxic category, then the harmful quantity was set as ten times larger, and so forth. Further details of the categorization process may be found in the notice of proposed rulemaking for determining harmful quantities (40 CFR Part 118), published concurrently.

B. Approach for Determination of Rates of Penalty

An integral part of the penalty structure provided in Section 311 of the Act is the designation of a unit of measurement. Specifically, Section 311(b)(2)(B)(iv) requires the Administrator to establish "... a

1. Hearings before the Committee on Commerce, United States Senate, 93rd Congress, First Session, November 14, 1973, Serial No. 93-52.

unit of measurement based on the usual trade practice..." for each designated substance. This section also specifies that the civil penalties assessable under Section 311(b)(2)(B)(iii)(bb) shall fall in the range of $100-$1,000 per unit of measurement.

Agency studies involving industry and trade associations have not revealed such units common to trade practice. A common unit of measurement for the manufacturer is frequently different from that employed by the user of the same material. Furthermore, price quotations show a variety of commercial units for the same chemical. Transporters of chemicals frequently employ units different from those of either manufacturer or user. Still further variations are seen depending on the mode of transport.

In summary, the finding of the Agency is that the only common unit of measure is a weight unit, the pound. Multiples of this basic unit are utilized throughout the chemical and transportation industries, but no single multiple of the basic pound unit can be found to be representative of the usual trade practice for any chemical. The penalties using these common units of measure shall be based on the toxicity, degradability, and dispersal characteristics of the substance [Section 311(b)(2)(B)(iv)] in a manner similar to the determination of those quantities of hazardous substances which are harmful to the public health or welfare at certain times, locations, circumstances and conditions [Section 311(b)(4)]. The feature in common is the potential capacity of the substance to cause environmental damage. Therefore, the minimum quantity of each material causing probable harm can be thought of as a common unit. Thus the

weight corresponding to the smallest common commercial container size, one pound (0.454 kilogram), previously adopted as the "harmful quantity" for materials in the most toxic EPA harmful quantity category, has also been adopted as the "unit of measurement" for materials in that category and assigned a base penalty rate of $1,000 per unit. Other categories are assigned larger units of measurement which are multiples of the basic one pound unit and are found as a direct proportion between the upper aquatic toxicity limit of the less toxic category and the upper aquatic toxicity limit of Category A substances. The aquatic toxicity ranges for various hazard categories and the units of measurement derived from the appropriate ratios are found in Table 1.

TABLE 1
UNITS OF MEASUREMENT

EPA Category	Unit of Measurement lb(kg)	Representative Range
A	1 (0.454)	LC50*<1ppm
B	10 (4.54)	1 ppm ≤ LC50 < 10 ppm
C	100 (45.4)	10 ppm ≤ LC50 < 100 ppm
D**	500 (227)	100 ppm ≤ LC50 ≤ 500 ppm

* LC50 means that concentration of material which is lethal to one-half of the test population of aquatic animals upon continuous exposure for 96 hours or less.

** The selection criteria (40 CFR Part 116) restrict the upper aquatic toxicity limit of the IMCO aquatic toxicity criterion from 1,000 to 500 (40 CFR Part 118), and thus alter the range used here for Category D to 100-500 ppm.

The proposed system recognizes that not all substances within a category exert their damaging effects equally. The law requires that the penalties range between $100 and $1,000 per unit of measurement. For each category in the proposed system the upper penalty limit is modified by physical/chemical adjustment factors which reflect the substance's ability to disperse.

The adjustment factor (0.1 to 1.0) arises from a second profiling operation based on the solubility, density, volatility, and associated propensity for dispersal in water of each hazardous substance. Each substance has been placed in one of eight categories combining these physical/chemical/dispersal properties in various ways. The relative harm these categories pose to the environment was then ranked. The terms involved and final relative ranking of physical/chemical/dispersal categories, in increasing order of relative damage potential, are shown in Table 2 and the the physical/chemical/dispersal factor of each substance is also indicated in Table 119.5.

TABLE 2
PHYSICAL/CHEMICAL/DISPERSAL (P/C/D)
ADJUSTMENT FACTORS

Material Classification	P/C/D Category	Rank	P/C/D Factor
Insoluble Volatile Floater	IVF	1	0.10
Insoluble Nonvolatile Floater	INF	2	0.23
Insoluble Sinker	IS	3	0.36
Soluble Mixer	SM	4	0.49
Precipitator	P	5	0.62

Table 2 (Continued)

Material Classification	P/C/D Category	Rank	P/C/D Factor
Soluble Sinker	SS	6	0.75
Soluble Floater	SF	7	0.88
Miscible	M	8	1.0

Legend:

IVF (insoluble volatile floater) - materials lighter than water with a vapor pressure greater than 10 mm Hg and a solubility of less than 1,000 ppm (weight per weight basis) or materials with vapor pressure greater than 100 mm Hg and solubility less than 10,000 ppm.

INF (insoluble nonvolatile floater) - materials lighter than water with a vapor pressure less than 10 mm Hg and solubility less than 1,000 ppm (weight per weight basis).

IS (insoluble sinker) - materials heavier than water and of solubility less than 1,000 ppm (weight per weight basis).

SM (soluble mixer) - solid substances which have a solubility greater than 1000 grams of solute per 1000 grams of water.

P (precipitator) - salts which dissociate or hydrolyze in water with subsequent precipitation of a toxic ion.

SS (soluble sinker) - materials heavier than water and of solubility greater than 1,000 ppm (weight per weight basis).

SF (soluble floater) - materials lighter than water and of a solubility greater than 1,000 ppm (weight per weight basis).

M (miscible) - liquid substances which can freely mix with water in any proportion.

In summary, the adjusted rates of penalty, in dollars per unit of measurement, arising from all possible combinations of toxic category and P/C/D factor are seen in Table 3 below.

TABLE 3
RATES OF PENALTY
IN $/UNIT OF MEASUREMENT*

Category	P/C/D Classes IVF	INF	IS	SM	P	SS	SF	M
A	100	230	360	490	620	750	880	1000
B	100	230	360	490	620	750	880	1000
C	100	230	360	490	620	750	880	1000
D	100	230	360	490	620	750	880	1000

For convenience, Table 4 shows the adjusted rates of penalty, in dollars per pound, for all combinations of toxic category and P/C/D factor.

TABLE 4
RATES OF PENALTY
IN $/LB

Category	P/C/D Classes IVF	INF	IS	SM	P	SS	SF	M
A	100	230	360	490	620	750	880	1000
B	10	23	36	49	62	75	88	100
C	1.0	2.3	3.6	4.9	6.2	7.5	8.8	10
D	0.20	0.46	0.72	0.98	1.2	1.5	1.8	2.0

Prevention and mitigation of the effect of discharges are the goals of this proposed rule. The harmful effects of discharges may be reduced in many cases by such actions as warnings to affected water users, containment, treatment, appropriate final disposal of the discharge or debris from a clean-up operation, environmental restoration and monitoring of hazardous substance levels. Details and further suggestions may be found in the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 1510). The "General Pattern of Response Actions" has been specified in 40 CFR Part 1510.53. For those waste materials considered to be hazardous, disposal will require special precautions in addition to Guidelines published as 40 CFR Part 24. Complete documentation of response activities and plans for prevention of future discharges, in addition to providing part of the basis for civil penalties, would be most protective of the long-term interests of the public.

C. Discretionary Choice of Civil Penalty System

Section 311 provides two civil penalty systems to discourage the discharge of nonremovable hazardous substances. The decision as to which penalty system [311(b)(2)(B)(iii)] should be applied was left to the discretion of the Administrator.

Concern has been expressed that the potential economic impact of penalties which might be assessed under Section 311(b)(2)(B)(iii)(bb) could be so great that major transportation modal shifts might occur, along with changes in plant siting. The Agency has no evidence at this time which would suggest that these changes are necessary or desirable. Consultation with the Department of Transportation has suggested that available transportation expertise is being utilized but that remedial civil penalties would enhance the protection of the environment.

* Unit of measurements for categories are A = 1 lb, B = 10 lb, C = 100 lb, D = 500 lb.

It is proposed that the Administrator's discretion in regard to penalties for discharges of nonremovable hazardous substances be used to control economic impact while providing strong incentive for mitigation of spill threats to public health or welfare, based upon the following principles:

1. Economic incentive in the form of penalties will motivate additional care for prevention of discharges;
2. Economic incentives in the form of penalties will motivate additional action to mitigate damages resulting from discharges;
3. Penalties should be assessed for nonremovable hazardous substances (40 CFR Part 117) discharged in amounts equal to or greater than harmful quantities (40 CFR Part 118);
4. Penalties should normally be assessed in the range of $500 to $5,000 on an individual discharge incident basis;
5. When assessing civil penalties, the substances' properties as well as the extent of action taken by the discharger to prevent or mitigate damage will be considered;
6. The higher penalty system as provided in 311(b)(2)(B)(iii)(bb) will be used only when the Agency can show gross negligence on the part of the discharger;
7. If the (bb) penalty calculatee to be less than $5,000, then the (aa) penalty of $500 to $5,000 per discharge will be used;
8. Case-by-case assessment of the discharger's actions provides the most equitable penalty basis while ensuring the greatest motivation for protection of the environment.

D. Examples of Penalty Determination

1. Assume 2,000 lb. of acetic acid is spilled and that in the judgement of the responsible Federal Officer, the discharger displayed gross negligence by refusing to take mitigating actions. Therefore the civil penalty assessed is determined by the proposed penalty rate multiplied by the number of units discharged. Referring to the accompanying rates of penalty table in Part 119.5, the material is found to be in Category C. In this category, the unit of measurement is 100 pounds. The base rate of penalty is, therefore, $1,000/100 lbs. Since the P/C/D adjustment factor for acetic acid is 1.0, the final penalty rate is $1,000/100 lbs or $10/lb. The final penalty for this spill would be $10/lb x 2,000 lbs = $20,000.

2. Assume 10,000 lb of calcium oxide is spilled, but that in this case the responsible Federal Officer finds the discharger's attempts to mitigate the effects are adequate for the conditions present. Consequently, the penalty recommended to be assessed will fall in the range of $500 to $5,000 per discharge, based on the factors mentioned previously. (Note: By way of contrast, the penalty which might have been assessed in case of inadequate response or mitigation by the discharger is calculated as follows. Referring to the table of Part 119.5 one finds the material belongs to Category D with a P/C/D factor of 0.49. The base rate of penalty is $1,000/UM or $2/lb. The adjusted rate of penalty would have been 0.49 x $2/lb = $0.98/lb and the final penalty would have been $0.98/lb x 10,000 lb = $9,800.)

3. Assume 500 lb. of a solution containing 50% by weight sodium hydroxide and 50% by weight water is spilled. Further, assume that the Administrator determines that gross negligence was the cause of the spill. Only half of the total poundage spilled is a designated hazardous substance. Effectively, 250 lb have been spilled. Sodium hydroxide is a member of Category C (UM = HQ = 100 lb). The P/C/D class of the material is "SS", for which the adjustment factor is 0.75. Therefore, the rate of penalty is 0.75 x $1,000/UM = $750/UM or 0.75 x $10/lb = $7.50/lb and the penalty would equal $7.50/lb x 250 lb = $1,875. However, for those spills in quantities leading to a total penalty of less than $5,000 under the penalty rate scheme of 311(b)(2)(B)(iii)(bb), the Administrator will assess a penalty in the range of $500 to $5,000 per discharge event according to the guidelines given earlier.

Interested persons may participate in this rulemaking by submitting written comments or requests for information, in triplicate, to: Dr. C. Hugh Thompson, WH-595, U.S. Environmental Protection Agency, Washington, D.C. 20460.

The Agency is particularly interested in comments relative to:

1). Effectiveness of the penalty rates in encouraging prevention and damage mitigation measures;

2). The use and magnitude of physical/chemical/dispersal factors;

3). The potential impact of penalty rates on producers, transporters, and handlers of hazardous substances;

4). The general workability of the proposed regulation guidelines for penalty rate discretion by the Administrator. The use of gross negligence as the prime basis for the Administrator's discretion was necessary to implement this section of the Act, due to the inflexibility of both the 311(b)(2)(B)(iii)(bb) upper penalty limits and the 311(b)(2)(B)(iv) penalty rate structure.

All comments received on or before 60 calendar days after the date of this publication will be considered before taking further action on the proposed rule.

A copy of all comments will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. The Environmental Protection Agency information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

Executive Order 11821 (November 27, 1974) requires that major proposals for legislation and promulgation of regulations and rules by agencies of the Executive Branch be accompanied by a statement certifying that the inflationary impact of the proposal has been evaluated.

A number of criteria have been defined to determine which actions require an inflationary impact statement. The Agency's analysis of the potential economic impact of these regulations indicate that none of the criteria defining a major proposal have been met. Thus, it is hereby certified that the economic and inflationary effects of this proposal have

been carefully evaluated in accordance with Executive Order 11821 and that no inflationary impact statement is required.

/s/ Russell E. Train

Russell E. Train
Administrator

Dated: DEC 22 1975

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT.

Part 119 - DETERMINATION OF UNITS OF MEASUREMENT AND RATES OF PENALTY FOR HAZARDOUS SUBSTANCES

119.1 Applicability

119.2 Abbreviations

119.3 Definitions

119.4 Guidelines for Discretionary Choice for Rate of Penalty

119.5 Determination of Units of Measurement and Rates of Penalty

Authority: Sections 311(b)(2)(B)(iv) and 501(a) of the Federal Water Pollution Control Act Amendments of 1972, [33 U.S.C. 1251 et seq., (the Act)].

119.1 APPLICABILITY

The regulation of this part makes a determination of the Units of Measurement and Rates of Penalty appropriate for discharges of non-removable hazardous substances (40 CFR Parts 116 and 117) in quantities equal to or exceeding the Harmful Quantity, (40 CFR Part 118). This regulation applies to designated substances in quantities equal to or in excess of those set forth in 40 CFR Part 118 when discharged into navigable waters or adjoining shorelines or the waters of the contiguous zone from vessels and offshore or onshore facilities except when the owner or operator can show such discharges are made: (1) in compliance with the requirements of Sections 301, 302, 304, 308, 307, and in compliance with an NPDES permit which has been issued pursuant to Section 402 of the Act, (2) in compliance with permits issued under Section 404 of the Act or Sections 102 and 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), (3) in compliance with approved water treatment plant operations as specified by local, State or Federal health regulations pertaining to safe drinking water,

(4) from properly functioning marine sanitation flow-through devices certified by the United States Coast Guard pursuant to Section 312 of the Act, or (5) in the course of a permitted use of a pesticide registered under 40 CFR Part 162 (Federal Register, Vol. 40, No. 129, Part II, pp. 28242-28286, July 3, 1975) by authority of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972, (86 Stat. 973, P.L. 92-516, 7 U.S.C. 136 et seq.).

119.2 ABBREVIATIONS

lb = pound(s)

kg = kilogram(s)

HQ = harmful quantity as required by Section 311(b)(4) and specified in 40 CFR Part 118

UM = unit of measurement as required by Section 311(b)(2)(B)(iv)

ROP = rate of penalty as required by Section 311(b)(2)(B)(iv)

119.3 DEFINITIONS

As used in this part, all terms shall have the same meaning in Section 311 of the Act and in 40 CFR Parts 116, 117, and 118.

119.4 GUIDELINES FOR DISCRETIONARY CHOICE OF RATE OF PENALTY

Prevention or mitigation and minimization of damage to public health or welfare resulting from discharges of nonremovable hazardous substances are encouraged by use of the following penalty system:

119.4a

Penalties will be assessed based upon the substance's toxicity,

degradability, dispersal characteristics and the mitigating steps taken in the event of discharges of nonremovable hazardous substances in excess of the harmful quantity (40 CFR Part 118) at the rate of $500 to $5,000 per discharge, by use of Section 311(b)(2)(B)(iii)(aa), unless the Administrator determines that gross negligepce on the part of the owner or operator of the vessel or facility is the cause of the discharge, or that after the discharge has occurred, the owner or operator has displayed gross negligence in minimizing or mitigating effects on the public health or welfare.

119.4b

When gross negligence is determined as in 119.4a, the Administrator will assess penalties for discharge of a nonremovable hazardous substance in excess of the harmful quantity using Section 311(b)(2)(B)(iii)(bb) and a rate of penalty per unit of measurement as set forth in Section 119.5 of this part, unless the total penalty assessed under this part is $5,000 or less; then a penalty on a "per discharge" basis, as noted in 119.4a will be used.

119.5 DETERMINATION OF UNITS OF MEASUREMENT AND RATES OF PENALTY

In accordance with Section 311(b)(2)(B)(iv) of the Act, the base penalty rate is determined for each category to be $1,000 per unit of measurement. The penalty rate for each substance is found by multiplication of the base penalty rate by an adjustment factor (a "P/C/D factor" which ranges from 0.1 to 1.0) reflecting the solubility, density, volatility, and associated propensity for dispersal in water of each hazardous substance, which thus satisfies the requirement that the penalty rate vary between $100 and $1,000 per unit of measurement.

For discharges of mixtures or solutions, the rate of penalty will be the sum of the rates for individual hazardous components if the quantity discharged equals or exceeds the harmful quantity for the mixture (determined by procedures in 40 CFR Part 118).

The following table lists each designated hazardous substance on the same line with the assigned EPA category, the corresponding unit of measurement (and harmful quantity), the assigned physical/chemical/dispersal (P/C/D) adjustment factor and the rate of penalty in dollars per unit of measurement. For convenience and understanding, the units of measurement have been used to calculate the penalty rates in dollars per pound as shown in the right hand column of Table 119.5.

Table 119.5: EPA HARMFUL QUANTITY CATEGORIES, UNITS OF MEASUREMENT AND RATES OF PENALTY

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Acetaldehyde	C	100 (45.4)	1.0	1,000	10
Acetic Acid	C	100 (45.4)	1.0	1,000	10
Acetic Anhydride	C	100 (45.4)	0.88	880	8.8
Acetone Cyanchydrin	C	100 (45.4)	0.88	880	8.8
Acetyl Bromide	D	500 (227)	0.75	750	1.5
Acetyl Chloride	D	500 (227)	0.75	750	1.5
Acrolein	A	1 (0.454)	0.88	880	880
Acrylonitrile	C	100 (45.4)	0.88	880	8.8
Adiponitrile	D	500 (227)	0.88	880	1.8
Aldrin	A	1 (0.454)	0.36	360	360
Allyl Alcohol	B	10 (4.54)	1.0	1,000	100
Allyl Chloride	C	100 (45.4)	0.10	100	1.0
Aluminum Fluoride	D	500 (227)	0.62	620	1.2
Aluminum Sulfate	D	500 (227)	0.62	620	1.2
Ammonia	C	100 (45.4)	0.88	880	8.8
Ammonium Acetate	D	500 (227)	0.49	490	0.98

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Ammonium Benzoate	D	500 (227)	0.75	750	1.5
Ammonium Bicarbonate	D	500 (227)	0.75	750	1.5
Ammonium Bichromate	D	500 (227)	0.75	750	1.5
Ammonium Bifluoride	D	500 (227)	0.75	750	1.5
Ammonium Bisulfite	D	500 (227)	0.75	750	1.5
Ammonium Bromide	D	500 (227)	0.75	750	1.5
Ammonium Carbamate	D	500 (227)	0.75	750	1.5
Ammonium Carbonate	D	500 (227)	0.49	490	0.98
Ammonium Chloride	D	500 (227)	0.75	750	1.5
Ammonium Chromate	D	500 (227)	0.75	750	1.5
Ammonium Citrate	D	500 (227)	0.75	750	1.5
Ammonium Fluoborate	D	500 (227)	0.75	750	1.5
Ammonium Fluoride	D	500 (227)	0.49	490	0.98
Ammonium Hydroxide	C	100 (45.4)	1.0	1,000	10
Ammonium Hypophosphite	D	500 (227)	0.75	750	1.5
Ammonium Iodide	D	500 (227)	0.49	490	0.98
Ammonium Nitrate	D	500 (227)	0.49	490	0.98

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Ammonium Oxalate	D	500 (227)	0.75	750	1.5
Ammonium Pentaborate	D	500 (227)	0.75	750	1.5
Ammonium Persulfate	D	500 (227)	0.75	750	1.5
Ammonium Silicofluoride	C	100 (45.4)	0.75	750	7.5
Ammonium Sulfamate	D	500 (227)	0.49	490	0.98
Ammonium Sulfide	D	500 (227)	0.75	750	1.5
Ammonium Sulfite	D	500 (227)	0.75	750	1.5
Ammonium Tartrate	D	500 (227)	0.75	750	1.5
Ammonium Thiocyanate	D	500 (227)	0.49	490	0.98
Ammonium Thiosulfate	D	500 (227)	0.49	490	0.98
Amyl Acetate	C	100 (45.4)	0.23	230	2.3
Aniline	C	100 (45.4)	0.75	750	7.5
Antimony Pentachloride	C	100 (45.4)	0.62	620	6.2
Antimony Pentafluoride	C	100 (45.4)	0.62	620	6.2
Antimony Potassium Tartrate	C	100 (45.4)	0.62	620	6.2
Antimony Tribromide	C	100 (45.4)	0.62	620	6.2
Antimony Trichloride	C	100 (45.4)	0.62	620	6.2

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Antimony Trifluoride	C	100 (45.4)	0.62	620	6.2
Antimony Trioxide	C	100 (45.4)	0.62	620	6.2
Arsenic Acid	C	100 (45.4)	0.62	620	6.2
Arsenic Disulfide	C	100 (45.4)	0.36	360	3.6
Arsenic Pentoxide	B	10 (4.54)	0.62	620	62
Arsenic Trichloride	C	100 (45.4)	0.62	620	6.2
Arsenic Trioxide	B	10 (4.54)	0.62	620	62
Arsenic Trisulfide	B	10 (4.54)	0.36	360	36
Barium Cyanide	A	1 (0.454)	0.75	750	750
Benzene	C	100 (45.4)	0.10	100	1.0
Benzoic Acid	D	500 (227)	0.75	750	1.5
Benzonitrile	C	100 (45.4)	0.75	750	7.5
Benzoyl Chloride	D	500 (227)	0.75	750	1.5
Benzyl Chloride	D	500 (227)	0.36	360	0.72
Beryllium Chloride	D	500 (227)	0.62	620	1.2
Beryllium Fluoride	C	100 (45.4)	0.62	620	6.2
Beryllium Nitrate	C	100 (45.4)	0.62	620	6.2

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Butyl Acetate	C	100 (45.4)	0.88	880	8.8
Butylamine	C	100 (45.4)	1.0	1,000	10
Butyric Acid	D	500 (227)	1.0	1,000	2.0
Cadmium Acetate	A	1 (0.454)	0.75	750	750
Cadmium Bromide	A	1 (0.454)	0.62	620	620
Cadmium Chloride	A	1 (0.454)	0.62	620	620
Calcium Arsenate	C	100 (45.4)	0.36	360	3.6
Calcium Arsenite	C	100 (45.4)	0.75	750	7.5
Calcium Carbide	D	500 (227)	0.62	620	1.2
Calcium Chromate	D	500 (227)	0.75	750	1.5
Calcium Cyanide	A	1 (0.454)	0.75	750	750
Calcium Dodecylbenzene-sulfonate	B	10 (4.54)	0.75	750	75
Calcium Hydroxide	D	500 (227)	0.75	750	1.5
Calcium Hypochlorite	A	1 (0.454)	0.49	490	490
Calcium Oxide	D	500 (227)	0.49	490	0.98
Captan	A	1 (0.454)	0.75	750	750

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Carbaryl	B	10 (4.54)	0.75	750	75
Carbon Disulfide	C	100 (45.4)	0.75	750	7.5
Chlordane	A	1 (0.454)	0.36	360	360
Chlorine	A	1 (0.454)	0.88	880	880
Chlorobenzene	B	10 (4.54)	0.36	360	36
Chloroform	B	10 (4.54)	0.36	360	36
Chlorosulfonic Acid	C	100 (45.4)	0.75	750	7.5
Chromic Acetate	D	500 (227)	0.75	750	1.5
Chromic Acid	D	500 (227)	0.49	490	0.98
Chromic Sulfate	D	500 (227)	0.75	750	1.5
Chromous Chloride	D	500 (227)	0.36	360	0.7
Chromyl Chloride	D	500 (227)	0.75	750	1.5
Cobaltous Bromide	C	100 (45.4)	0.62	620	6.2
Cobaltous Fluoride	C	100 (45.4)	0.62	620	6.2
Cobaltous Formate	C	100 (45.4)	0.62	620	6.2
Cobaltous Sulfamate	C	100 (45.4)	0.62	620	6.2
Coumaphos	A	1 (0.454)	0.75	750	750

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Cresol	B	10 (4.54)	0.75	750	75
Cupric Acetate	B	10 (4.54)	0.62	620	62
Cupric Acetoarsenite	B	10 (4.54)	0.36	360	36
Cupric Chloride	B	10 (4.54)	0.62	620	62
Cupric Formate	B	10 (4.54)	0.62	620	62
Cupric Glycinate	B	10 (4.54)	0.62	620	62
Cupric Lactate	B	10 (4.54)	0.62	620	62
Cupric Nitrate	B	10 (4.54)	0.62	620	62
Cupric Oxalate	B	10 (4.54)	0.36	360	36
Cupric Subacetate	B	10 (4.54)	0.62	620	62
Cupric Sulfate	B	10 (4.54)	0.62	620	62
Cupric Sulfate Ammoniated	B	10 (4.54)	0.62	620	62
Cupric Tartrate	B	10 (4.54)	0.36	360	36
Cuprous Bromide	B	10 (4.54)	0.36	360	36
Cyanogen Chloride	A	1 (0.454)	0.75	750	750
Cyclohexane	C	100 (45.4)	0.10	100	1.0
2,4-D Acid	B	10 (4.54)	0.36	360	36

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
2,4-D Esters	B	10 (4.54)	0.36	360	36
Dalapon	B	10 (4.54)	0.75	750	75
DDT	A	1 (0.454)	0.36	360	360
Diazinon	A	1 (0.454)	0.36	360	360
Dicamba	C	100 (45.4)	0.75	750	7.5
Dichlobenil	C	100 (45.4)	0.75	750	7.5
Dichlone	A	1 (0.454)	0.75	750	750
Dichlorvos	A	1 (0.454)	0.75	750	750
Dieldrin	A	1 (0.454)	0.75	750	750
Diethylamine	C	100 (45.4)	0.88	880	8.8
Dimethylamine	C	100 (45.4)	0.88	880	8.8
Dinitrobenzene	C	100 (45.4)	0.75	750	7.5
Dinitrophenol	B	10 (4.54)	0.75	750	75
Diquat	C	100 (45.4)	0.75	750	7.5
Disulfoton	A	1 (0.454)	0.75	750	750
Diuron	B	10 (4.54)	0.75	750	75
Dodecylbenzenesulfonic Acid	B	10 (4.54)	0.75	750	75

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Dursban	A	1 (0.454)	0.75	750	750
Endosulfan	A	1 (0.454)	0.75	750	750
Endrin	A	1 (0.454)	0.36	360	360
Ethion	A	1 (0.454)	0.75	750	750
Ethylbenzene	C	100 (45.4)	0.23	230	2.3
Ethylenediamine	C	100 (45.4)	0.88	880	8.8
EDTA	D	500 (227)	0.36	360	0.72
Ferric Ammonium Citrate	C	100 (45.4)	0.62	620	6.2
Ferric Ammonium Oxalate	C	100 (45.4)	0.62	620	6.2
Ferric Chloride	C	100 (45.4)	0.62	620	6.2
Ferric Fluoride	C	100 (45.4)	0.62	620	6.2
Ferric Nitrate	C	100 (45.4)	0.62	620	6.2
Ferric Sulfate	C	100 (45.4)	0.62	620	6.2
Ferrous Ammonium Sulfate	C	100 (45.4)	0.62	620	6.2
Ferrous Chloride	C	100 (45.4)	0.62	620	6.2
Ferrous Sulfate	C	100 (45.4)	0.62	620	6.2
Formaldehyde	C	100 (45.4)	1.0	1,000	10

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Formic Acid	C	100 (45.4)	1.0	1,000	10
Fumaric Acid	D	500 (227)	0.75	750	1.5
Furfural	C	100 (45.4)	0.75	750	7.5
Guthion	A	1 (0.454)	0.36	360	360
Heptachlor	A	1 (0.454)	0.36	360	360
Hydrochloric Acid	D	500 (227)	0.75	750	1.5
Hydrofluoric Acid	D	500 (227)	1.0	1,000	2.0
Hydrogen Cyanide	A	1 (0.454)	1.0	1,000	1,000
Hydroxylamine	D	500 (227)	0.75	750	1.5
Isoprene	C	100 (45.4)	0.10	100	1.0
Isopropanolamine Dodecyl-benzenesulfonate	B	10 (4.54)	0.75	750	75
Kelthane	C	100 (45.4)	0.36	360	3.6
Lead Acetate	D	500 (227)	0.62	620	1.2
Lead Arsenate	D	500 (227)	0.36	360	0.7
Lead Chloride	D	500 (227)	0.62	620	1.2
Lead Fluoborate	D	500 (227)	0.62	620	1.2
Lead Fluoride	C	100 (45.4)	0.36	360	3.6

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Lead Iodide	D	500 (227)	0.36	360	0.7
Lead Nitrate	D	500 (227)	0.62	620	1.2
Lead Stearate	D	500 (227)	0.62	620	1.2
Lead Sulfate	D	500 (227)	0.36	360	0.7
Lead Sulfide	C	100 (45.4)	0.36	360	3.6
Lead Tetraacetate	D	500 (227)	0.62	620	1.2
Lead Thiocyanate	D	500 (227)	0.36	360	0.7
Lead Thiosulfate	D	500 (227)	0.36	360	0.7
Lead Tungstate	D	500 (227)	0.36	360	0.7
Lindane	A	1 (0.454)	0.75	750	750
Lithium Bichromate	D	500 (227)	0.49	490	0.98
Lithium Chromate	D	500 (227)	0.49	490	0.98
Malathion	A	1 (0.454)	0.75	750	750
Maleic Acid	D	500 (227)	0.75	750	1.5
Maleic Anhydride	D	500 (227)	0.88	880	1.8
Mercuric Acetate	A	1 (0.454)	0.62	620	620
Mercuric Cyanide	A	1 (0.454)	0.62	620	620

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Mercuric Nitrate	A	1 (0.454)	0.62	620	620
Mercuric Sulfate	A	1 (0.454)	0.62	620	620
Mercuric Thiocyanate	A	1 (0.454)	0.36	360	360
Mercurous Nitrate	A	1 (0.454)	0.62	620	620
Methoxychlor	A	1 (0.454)	0.36	360	360
Methyl Mercaptan	B	10 (4.54)	0.10	100	10
Methyl Methacrylate	D	500 (227)	0.10	100	0.2
Methyl Parathion	B	10 (4.54)	0.36	360	36
Mevinphos	A	1 (0.454)	1.0	1,000	1,000
Monoethylamine	C	100 (45.4)	1.0	1,000	10
Monomethylamine	C	100 (45.4)	0.88	880	8.8
Naled	A	1 (0.454)	0.36	360	360
Naphthalene	B	10 (4.54)	0.36	360	36
Naphthenic Acid	A	1 (0.454)	0.75	750	750
Nickel Ammonium Sulfate	D	500 (227)	0.62	620	1.2
Nickel Chloride	D	500 (227)	0.62	620	1.2
Nickel Formate	C	100 (45.4)	0.62	620	6.2

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Nickel Hydroxide	C	100 (45.4)	0.36	360	3.6
Nickel Nitrate	D	500 (227)	0.62	620	1.2
Nickel Sulfate	D	500 (227)	0.62	620	1.2
Nitric Acid	C	100 (45.4)	1.0	1,000	10
Nitrobenzene	D	500 (227)	0.75	750	1.5
Nitrogen Dioxide	C	100 (45.4)	1.0	1,000	10
Nitrophenol	B	10 (4.54)	0.75	750	75
Paraformaldehyde	C	100 (45.4)	0.75	750	7.5
Parathion	A	1 (0.454)	0.36	360	360
Pentachlorophenol	A	1 (0.454)	0.36	360	360
Phenol	B	10 (4.54)	0.75	750	75
Phosgene	D	500 (227)	0.75	750	1.5
Phosphoric Acid	D	500 (227)	1.0	1,000	2.0
Phosphorous	A	1 (0.454)	0.36	360	360
Phosphorous Oxychloride	D	500 (227)	0.75	750	1.5
Phosphorous Pentasulfide	C	100 (45.4)	0.75	750	7.5
Phosphorous Trichloride	D	500 (227)	0.75	750	1.5

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Polychlorinated Biphenyls	A	1 (0.454)	0.36	360	360
Potassium Arsenate	C	100 (45.4)	0.62	620	6.2
Potassium Arsenite	C	100 (45.4)	0.62	620	6.2
Potassium Bichromate	D	500 (227)	0.75	750	1.5
Potassium Chromate	D	500 (227)	0.75	750	1.5
Potassium Cyanide	A	1 (0.454)	0.75	750	750
Potassium Hydroxide	C	100 (45.4)	0.49	490	4.9
Potassium Permanganate	B	10 (4.54)	0.75	750	75
Propionic Acid	D	500 (227)	1.0	1,000	2.0
Propionic Anhydride	D	500 (227)	1.0	1,000	2.0
Propyl Alcohol	D	500 (227)	1.0	1,000	2.0
Pyrethrins	C	100 (45.4)	0.75	750	7.5
Quinoline	A	1 (0.454)	0.75	750	750
Resorcinol	B	10 (4.54)	0.75	750	75
Selenium Oxide	C	100 (45.4)	0.75	750	7.5
Sodium	C	100 (45.4)	0.75	750	7.5
Sodium Arsenate	C	100 (45.4)	0.75	750	7.5

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Sodium Arsenite	C	100 (45.4)	0.75	750	7.5
Sodium Bichromate	D	500 (227)	0.49	490	0.98
Sodium Bifluoride	D	500 (227)	0.75	750	1.5
Sodium Bisulfite	D	500 (227)	0.75	750	1.5
Sodium Chromate	D	500 (227)	0.75	750	1.5
Sodium Cyanide	A	1 (0.454)	0.75	750	750
Sodium Dodecylbenzene-sulfonate	B	10 (4.54)	0.75	750	75
Sodium Fluoride	D	500 (227)	0.75	750	1.5
Sodium Hydrosulfide	D	500 (227)	0.75	750	1.5
Sodium Hydroxide	C	100 (45.4)	0.75	750	7.5
Sodium Hypochlorite	A	1 (0.454)	0.49	490	490
Sodium Methylate	C	100 (45.4)	0.75	750	7.5
Sodium Nitrite	B	10 (4.54)	0.75	750	75
Sodium Phosphate Monobasic	D	500 (227)	0.75	750	1.5
Sodium Phosphate Dibasic	D	500 (227)	0.49	490	0.98
Sodium Phosphate Tribasic	D	500 (227)	0.75	750	1.5
Sodium Selenite	C	100 (45.4)	0.75	750	7.5

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Sodium Sulfide	C	100 (45.4)	0.75	750	7.5
Stannous Fluoride	D	500 (227)	0.75	750	1.5
Strontium Chromate	D	500 (227)	0.36	360	0.72
Strychnine	C	100 (45.4)	0.36	360	3.6
Styrene	C	100 (45.4)	0.10	100	1.0
Sulfuric Acid	C	100 (45.4)	1.0	1,000	10
Sulfur Monochloride	D	500 (227)	0.75	750	1.5
2,4,5-T Acid	A	1 (0.454)	0.36	360	360
2,4,5-T Esters	A	1 (0.454)	0.36	360	360
TDE	A	1 (0.454)	0.36	360	360
Tetraethyl Lead	A	1 (0.454)	0.36	360	360
Tetraethyl Pyrophosphate	B	10 (45.4)	1.0	1,000	100
Toluene	C	100 (45.4)	0.10	100	1.0
Toxaphene	A	1 (0.454)	0.36	360	360
Trichlorfon	B	10 (4.54)	0.75	750	7.5
Trichlorophenol	A	1 (0.454)	0.36	360	360
Triethanolamine Dodecylbenzenesulfonate	B	10 (4.54)	0.75	750	75

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Triethylamine	C	100 (45.4)	0.88	880	8.8
Trimethylamine	C	100 (45.4)	0.88	880	8.8
Uranium Peroxide	D	500 (227)	0.36	360	0.7
Uranyl Acetate	D	500 (227)	0.62	620	1.2
Uranyl Nitrate	D	500 (227)	0.62	620	1.2
Uranyl Sulfate	D	500 (227)	0.62	620	1.2
Vanadium Pentoxide	C	100 (45.4)	0.62	620	6.2
Vanadyl Sulfate	C	100 (45.4)	0.62	620	6.2
Vinyl Acetate	C	100 (45.4)	0.88	880	8.8
Xylene	C	100 (45.4)	0.23	230	2.3
Xylenol	C	100 (45.4)	0.75	750	7.5
Zectran	C	100 (45.4)	0.75	750	7.5
Zinc Acetate	C	100 (45.4)	0.62	620	6.2
Zinc Ammonium Chloride	C	100 (45.4)	0.62	620	6.2
Zinc Bichromate	C	100 (45.4)	0.62	620	6.2
Zinc Borate	C	100 (45.4)	0.62	620	6.2
Zinc Bromide	C	100 (45.4)	0.62	620	6.2

Material	EPA Category	UM in lb (kg)	P/C/D Factor	ROP ($/UM)	ROP ($/lb)
Zinc Carbonate	C	100 (45.4)	0.36	360	3.6
Zinc Chloride	C	100 (45.4)	0.62	620	6.2
Zinc Cyanide	A	1 (0.454)	0.36	360	360
Zinc Fluoride	C	100 (45.4)	0.62	620	6.2
Zinc Formate	C	100 (45.4)	0.62	620	6.2
Zinc Hydrosulfite	C	100 (45.4)	0.62	620	6.2
Zinc Nitrate	C	100 (45.4)	0.62	620	6.2
Zinc Phenolsulfonate	C	100 (45.4)	0.62	620	6.2
Zinc Phosphide	C	100 (45.4)	0.36	360	3.6
Zinc Potassium Chromate	C	100 (45.4)	0.36	360	3.6
Zinc Silicofluoride	C	100 (45.4)	0.62	620	6.2
Zinc Sulfate	C	100 (45.4)	0.62	620	6.2
Zinc Sulfate Monohydrate	C	100 (45.4)	0.62	620	6.2
Zirconium Acetate	D	500 (227)	0.62	620	1.2
Zirconium Nitrate	D	500 (227)	0.62	620	1.2
Zirconium Oxychloride	D	500 (227)	0.62	620	1.2
Zirconium Potassium Fluoride	D	500 (227)	0.62	620	1.2
Zirconium Sulfate	D	500 (227)	0.62	620	1.2
Zirconium Tetrachloride	D	500 (227)	0.62	620	1.2

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