

MONDAY, MAY 3, 1976



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federal register

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

Ten agencies have agreed to a six-month trial period based on the assignment of two days a week beginning February 9 and ending August 6 (See 41 FR 5453). The participating agencies and the days assigned are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
	CSC			CSC
	LABOR			LABOR

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202-523-5286. For information on obtaining extra copies, please call 202-523-5240.

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federal register

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There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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

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

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

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

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
May 3	May 18	June 2	June 17	July 2 ¹	August 2
May 4	May 19	June 3	June 18	July 6	August 2
May 5	May 20	June 4	June 21	July 6	August 3
May 6	May 21	June 7	June 21	July 6	August 4
May 7	May 24	June 7	June 21	July 6	August 5
May 10	May 25	June 9	June 24	July 9	August 9
May 11	May 26	June 10	June 25	July 12	August 9
May 12	May 27	June 11	June 28	July 12	August 10
May 13	May 28	June 14	June 28	July 12	August 11
May 14	June 1	June 14	June 28	July 13	August 12
May 17	June 1	June 16	July 1	July 16	August 16
May 18	June 2	June 17	July 2 ¹	July 19	August 16
May 19	June 3	June 18	July 6	July 19	August 17
May 20	June 4	June 21	July 6	July 19	August 18
May 21	June 7	June 21	July 6	July 20	August 19
May 24	June 8	June 23	July 8	July 23	August 23
May 25	June 9	June 24	July 9	July 26	August 23
May 26	June 10	June 25	July 12	July 26	August 24
May 27	June 11	June 28	July 12	July 26	August 25
May 28	June 14	June 28	July 12	July 27	August 26

¹ If July 2 is declared an official holiday for the Bicentennial Year, this date becomes July 6.

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

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

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
 DIBA—Domestic and International Business Administration
 EDA—Economic Development Administration
 MA—Maritime Administration
 MBE—Minority Business Enterprise Office
 NBS—National Bureau of Standards
 NOAA—National Oceanic and Atmospheric Administration
 NTIS—National Technical Information Service
 Patent—Patent Office
 TS—Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
 Army—Army Department
 DCPA—Defense Civil Preparedness Agency
 DIA—Defense Intelligence Agency
 DSA—Defense Supply Agency
 Engineers—Engineers Corps
 Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
 CDC—Disease Control Center
 FDA—Food and Drug Administration
 HRA—Health Resources Administration
 HSA—Health Services Administration
 NIH—National Institutes of Health
 OE—Education Office
 PHS—Public Health Service
 RSA—Rehabilitation Services Administration
 SRS—Social and Rehabilitation Service
 SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

FDAA—Federal Disaster Assistance Administration

FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
 FIA—Federal Insurance Administration
 GNMA—Government National Mortgage Association
 HP&MC—Housing Production and Mortgage Credit, Office of Assistant Secretary
 ILSRO—Interstate Land Sales Registration Office

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
 BIA—Indian Affairs Bureau
 BLM—Land Management Bureau
 FWS—Fish and Wildlife Service
 GS—Geological Survey
 MESA—Mining Enforcement and Safety Administration
 Mines—Mines Bureau
 NPS—National Park Service
 OHA—Hearings and Appeals Office
 O & G—Oil and Gas Office
 Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
 INS—Immigration and Naturalization Service
 LEAA—Law Enforcement Assistance Administration

LABOR—LABOR DEPARTMENT

BLS—Labor Statistics Bureau
 EBSO—Employee Benefits Security Office
 ESA—Employment Standards Administration
 ETA—Employment and Training Administration
 FCCO—Federal Contract Compliance Office
 OSHA—Occupational Safety and Health Administration
 W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development

DOT—TRANSPORTATION DEPARTMENT

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

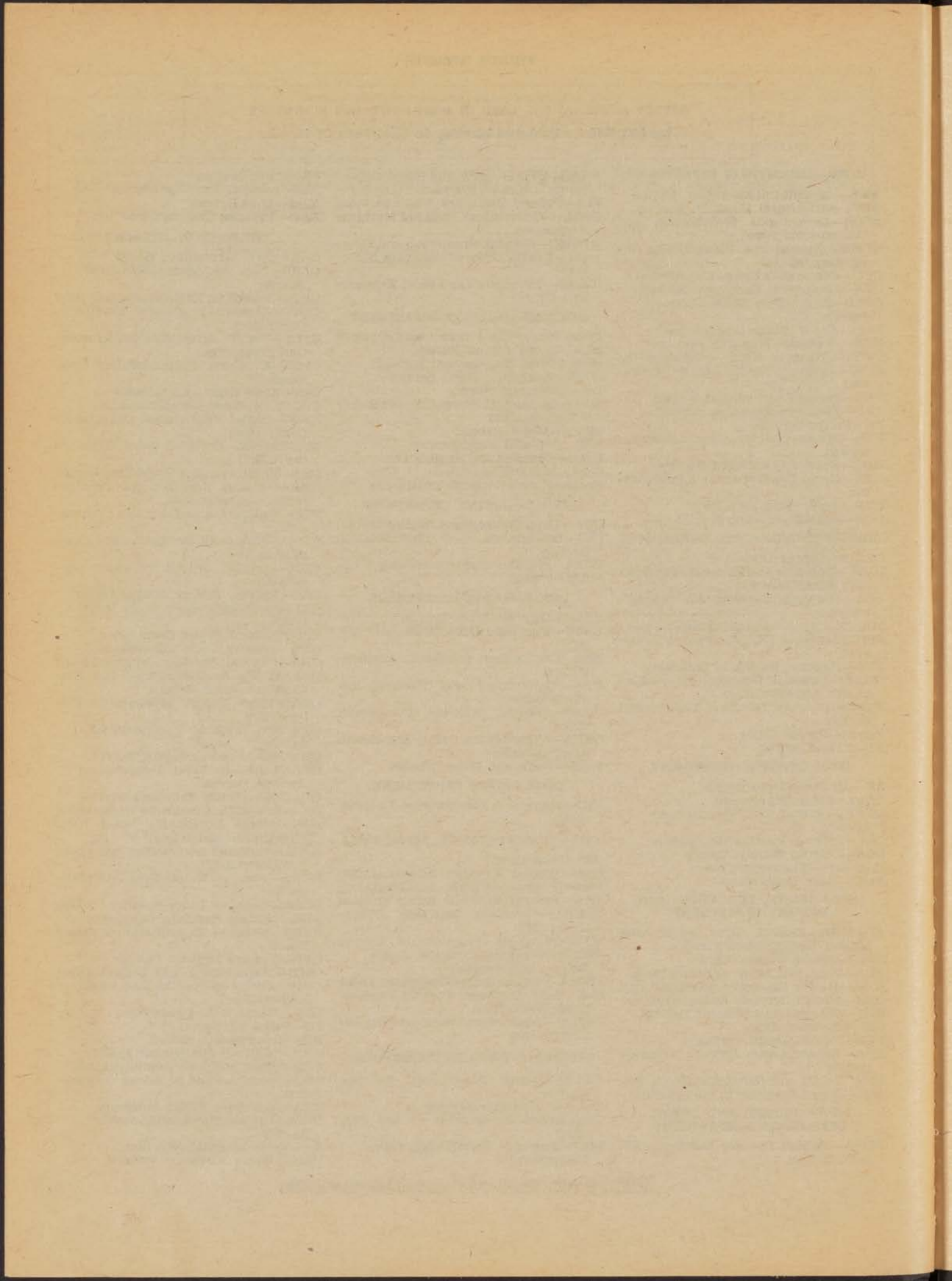
TREASURY—TREASURY DEPARTMENT

AT&F—Alcohol, Tobacco and Firearms Bureau
 Customs—Customs Service
 Comptroller—Comptroller of the Currency
 ESO—Economic Stabilization Office (temporary)

FS—Fiscal Service
 IRS—Internal Revenue Service
 Mint—Mint Bureau
 RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

CAB—Civil Aeronautics Board
 CASE—Cost Accounting Standards Board
 CEQ—Council on Environmental Quality
 CFTC—Commodity Futures Trading Commission
 CITA—Textile Agreements Implementation Committee
 CPSC—Consumer Product Safety Commission
 CRC—Civil Rights Commission
 CSC—Civil Service Commission
 EEOC—Equal Employment Opportunity Commission
 EXIMBANK—Export-Import Bank of the U.S.
 EPA—Environmental Protection Agency
 ERDA—Energy Research and Development Administration
 FCC—Federal Communications Commission
 FCSC—Foreign Claims Settlement Commission
 FDIC—Federal Deposit Insurance Corporation
 FEA—Federal Energy Administration
 FHLBB—Federal Home Loan Bank Board
 FPC—Federal Power Commission
 FTC—Federal Trade Commission
 GSA—General Services Administration
 GSA/ADTS—Automated Data and Telecommunications Service
 GSA/FMPO—Federal Management Policy Office
 GSA/FPA—Federal Preparedness Agency
 GSA/FSS—Federal Supply Service
 GSA/NARS—National Archives and Records Service
 GSA/PBS—Public Buildings Service
 ICC—Interstate Commerce Commission
 ICP—Interim Compliance Panel (Coal Mine Health and Safety)
 NASA—National Aeronautics and Space Administration
 NCUA—National Credit Union Administration
 NLRB—National Labor Relations Board
 NRC—Nuclear Regulatory Commission
 NTSB—National Transportation Safety Board
 OFR—Federal Register Office
 OMB—Management and Budget Office
 OPIC—Overseas Private Investment Corporation
 PRC—Postal Rate Commission
 PS—Postal Service
 RB—Renegotiation Board
 RRB—Railroad Retirement Board
 SBA—Small Business Administration
 SEC—Securities and Exchange Commission
 TVA—Tennessee Valley Authority
 USIA—United States Information Agency
 VA—Veterans Administration
 WRC—Water Resources Council



presidential documents

Title 3—The President

Memorandum of April 14, 1976

Eligibility of Surinam To Purchase Defense Articles and Defense Services Under the Foreign Military Sales Act, as Amended

[Presidential Determination No. 76-12]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, April 14, 1976.

Pursuant to the authority vested in me by Section 3(a) (1) of the Foreign Military Sales Act, as amended, I hereby find that the sale of defense articles and defense services to the Government of Surinam will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to Congress.

This finding, which amends Presidential Determination No. 73-10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73-12 of April 26, 1973 (38 FR 12799); No. 74-9 of December 13, 1973 (39 FR 3537); No. 75-2 of October 29, 1974 (39 FR 39863); No. 75-21 of May 20, 1975 (40 FR 24889); and 76-1 of August 5, 1975 (40 FR 37205), shall be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc. 76-12969 Filed 4-30-76; 9:49 am]

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 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

The rate for subscription service to all revised volumes issued for 1976 is \$350 domestic, \$75 additional for foreign mailing.

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

CFR Unit (Rev. as of Jan. 1, 1976):

Title	Price
1	\$1.40
2 [Reserved]	
3A, 1975 Compilation	3.40
5	4.90
6	.95
7 Parts:	
0-45	5.80
46-51	3.80
52	5.70
53-209	5.50
210-699	6.20
700-749	3.80
750-899	1.70
900-944	3.90
945-980	2.70
981-999	2.40
1000-1059	4.00
1060-1119	4.50
1120-1199	2.80
1200-1499	4.50
1500-end	6.90
8	2.40
13	3.60
14 Parts:	
1-59	5.30
60-199	5.60
200-1199	6.20
1200-end	2.00
15	5.40
16 Parts:	
0-149	6.50

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CFR Unit (Rev. as of April 1, 1975):

Title	Price
17	\$6.30
18 Parts:	
1-149	4.65
150-end	4.65
19	5.40
20 Parts:	
1-399	2.45
400-end	9.70
21 Parts:	
1-9	2.10
10-199	6.75
200-299	1.60
300-499	5.80
500-599	3.60
600-1299	2.95
1300-end	1.90
22	4.75
23	3.55
24 Parts:	
0-499	5.80
500-end	5.45
25	4.40
26 Parts:	
1 (§§ 1.0-1-1.169)	5.90
1 (§§ 1.170-1.300)	3.65
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1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.40
1 (§§ 1.851-1.1200)	5.80
1 (§ 1.1201-end)	6.90
2-29	3.40
30-39	3.40
40-299	5.25
300-499	3.55
500-599 (Retain CFR Vol. Rev. 4-1-74)	3.15
600-end	1.70
27 (Rev. May 1, 1975)	7.70
28	2.40
29 Parts:	
0-499	5.90
500-1899	6.85
1900-1919	7.35
1920-end	3.50
30	5.80
31	4.90
32 Parts:	
40-399	5.99
400-589	4.90
590-699	2.35
700-799	7.55
800-999	5.35
1000-1399	2.05
1400-1599	3.65
1600-end	1.80
32A	2.85
33 Parts:	
1-199	5.95

Title	Price
200-end	4.60
34	1.70
35	3.90
36	3.55
37	2.10
38	7.10
39	3.10
40 Parts:	
0-49	\$2.90
50-69	6.90
70-99	4.15
100-end	8.35
41 Chapters:	
1-2	6.75
3-6	6.05
7	1.80
8	1.80
9 (Rev. 11-1-75)	3.90
10-17	3.85
18 (Retain CFR Vol. Rev. 7-1-74)	7.60
19-100	3.25
101-end	6.20
General Index	3.05
CFR Unit (Rev. as of Oct. 1, 1975):	
42	\$5.15
43 Parts:	
1-999	\$2.90
1000-end	7.10
44 [Reserved]	
45 Parts:	
1-99	3.25
100-199	6.80
200-499	3.55
500-end	4.90
46 Parts:	
1-29	2.20
30-40	2.15
41-69	4.40
70-89	2.05
90-109	1.95
110-139	1.90
140-149	7.50
150-165	3.75
166-199	2.60
200-end	6.50
47 Parts:	
0-19	4.25
20-69	5.25
70-79	4.60
80-end	5.60
48 [Reserved]	
49 Parts:	
1-99	1.85
100-199	6.80
200-999	5.90
1000-1199	3.55
1200-1299	7.65
1300-end	2.95
50	4.15

Title 7—Agriculture

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

PART 26—GRAIN STANDARDS

Export Inspection

On February 12, 1976, there was published in the FEDERAL REGISTER (41 FR 6265-6268) a notice of proposed rule-making to amend §§ 26.6, 26.8, 26.9, 26.11, 26.36, 26.37, 26.46, 26.47, 26.50, 26.57, 26.59, 26.70, 26.87, 26.96, 26.100, 26.101, and 26.110 of the regulations (7 CFR 26.6, 26.8, 26.9, 26.11, 26.36, 26.37, 26.46, 26.47, 26.50, 26.57, 26.59, 26.70, 26.87, 26.96, 26.100, 26.101, and 26.110) under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.).

Copies of the notice of proposed rule-making were sent to official inspection agencies designated under the Act and to interested members of the grain industry.

Interested parties were given until February 19, 1976, to submit written data, views, or arguments with respect to the proposed amendments to the regulations. In addition, opportunity was afforded all interested parties to submit oral or written data, views, or arguments at a public hearing held in the Administration Building, Room 218A, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, D.C., at 9:00 a.m. on February 19, 1976.

In response to a request by several interested parties for additional time to study the proposals, the time for filing written data, views, or arguments was extended to March 4, 1976. Also, the date of public hearing was changed to March 4, 1976, and the place of public hearing was changed to Room 2096, Agriculture Building, 1400 Independence Avenue SW., Washington, D.C. Notice of extended comment period and change of date and place of public hearing was published in the February 18, 1976, FEDERAL REGISTER (41 FR 7415).

A total of 44 oral and written comments with respect to the proposed amendments were received from farm organizations, grain industry firms, grain industry groups, official inspection agencies, and grain inspection groups.

Statement of considerations. The provisions of section 26.110(d)(3) of the regulations (7 CFR 26.110) which were effective September 4, 1975, require that all official samples for bulk export cargo inspection be obtained by the use of approved diverter-type mechanical samplers. The section contains a May 1, 1976, date as a deadline requirement for installation of such mechanical samplers at export locations.

The proposed amendment of section 26.110(d)(3) published February 12, 1976, further requires that official samples for export inspection be obtained as near as practicable to the end of the final loading conveyance unless otherwise approved by the Administrator under such conditions as he determines will provide

representative samples and maintain the integrity of the official inspection service.

Because of the time requirements presently effective in section 26.110(d)(3) and the impact of the proposed amendment to this section on export loading facilities, the Department has concluded that there is an urgent need to publish its decision on the proposed provisions of section 26.110(d)(3) at this time, and at a later date, publish its decision on the proposed provisions of the remaining miscellaneous sections of the regulations.

Six comments filed with respect to the February 12, 1976, proposed amendment of section 26.110(d)(3) supported the amendment as proposed. Nine of the comments filed opposed the amendment of section 26.110(d)(3) on the grounds that such amendment would prohibit the use of shipping bins and would involve excessive expense in installation or relocation of some mechanical samplers.

(It has been previously determined that the approved diverter-type mechanical samplers obtain the most representative samples available when such samplers are properly installed and operated and that such mechanical samplers are to be used at export facilities in obtaining official samples of grain officially inspected for bulk export cargo shipments.)

After review of the comments filed with respect to the February 12, 1976, proposed amendment of section 26.110(d)(3) and other information available to the Department, the following determinations have been made:

(1) Mechanical samplers need to be located, installed, and operated in a manner that prevents any manipulation or tampering which would deprive official samples of their representative character;

(2) Mechanical samplers need to be located as near as practicable to the end of the final loading conveyance so that handling of grain after sampling is minimized thereby reducing the possibility of a change in quality because of breakage and to further reduce the opportunity for the undetected addition or introduction of other grain or other material to the grain after official sampling;

(3) Because of possible needed renovation and construction requirements or other conditions beyond their control, some export elevators will not meet the May 1, 1976, date for mandatory installation of diverter-type mechanical samplers;

(4) The requirements of this section should not prohibit an export elevator from utilizing shipping bins in conjunction with mechanical samplers provided the representativeness of official samples is strictly assured; and

(5) The introduction or addition of grain or other material to the stream of grain after official sampling by approved mechanical samplers at any point from mechanical sampler to carrier should be prohibited, except those materials expressly allowed by the Administrator; e.g., the application of an approved fumigant or pesticide for prevention of insect infestation.

In view of the above, the Department has concluded that amendment of section 26.110(d)(3), as proposed, should be revised to provide that (1) if an export elevator or loading facility cannot meet the May 1, 1976, deadline for installation of diverter-type mechanical samplers because of necessary construction or other conditions beyond the control of the elevator or facility, the Administrator may, upon written request for extension of time by the elevator or facility, review the circumstances of the request and, if warranted, grant an extension based on the circumstances of each case. Such extension shall be based on a written request and a showing by the requesting person or firm that a diligent effort has been made to meet the May 1, 1976, deadline but because of construction requirements or other circumstances beyond the control of the person or firm making the request, the installation and approval of diverter-type mechanical samplers cannot be achieved by the May 1 deadline. In each case where an extension is granted, each official inspection certificate issued for a bulk export cargo lot at such export elevator or export loading facility shall, during such period of extension, show the statement, "The lot of grain represented by this certificate was sampled by _____"

(type of sampling method)

If installation and approval of diverter-type mechanical samplers is not achieved during the period of extension granted by the Administrator, each official inspection certificate issued after the termination of such period shall show the statement, "The lot of grain represented by this certificate was sampled by means of _____ and samples

(type of sampling method)

obtained by such method may not be as representative as those obtained by an approved diverter-type mechanical sampler." After installation and approval of diverter-type mechanical samplers at an export elevator or export loading facility, the method of sampling statement will not be required to be shown on official export inspection certificates issued at that location; (2) for new export elevators or export loading facilities which begin construction after May 1, 1976, the diverter-type mechanical samplers installed to obtain official samples for inspection shall be installed as near as practicable to the end of the final loading conveyance; and (3) if an export elevator or export loading facility which is presently operating begins renovation or remodeling after May 1, 1976, and such renovation or remodeling includes the area in which diverter-type mechanical samplers are already installed and will affect the sampling system; and if such diverter-type mechanical samplers are not located as near as practicable to the end of the final loading conveyance, the Administrator may, at the time of renovation or remodeling, require the diverter-type mechanical samplers to be relocated as near as practicable to the end of the final loading conveyance.

For the purposes of this section, the term "final loading conveyance" shall be deemed to mean the mechanical equipment, device, or apparatus used to transport or move the lot of grain from the elevator bins or tanks to the spout which delivers the grain into the final container or carrier which will transport the grain from the United States.

The Department has further concluded that in order to provide the needed extension of time for export elevators or export loading facilities that are not able to complete installation of diverter-type mechanical samplers by May 1, 1976, an amendment of the parenthetical phrase in section 26.59(b) (12) of the regulations is necessary in order to show the method of sampling on export certificates of grade. The parenthetical phrase in section 26.59(b) (12) presently reads as follows: (This subparagraph is not applicable to export certificates for cargo shipments.) The phrase is being amended to read as follows: (This subparagraph is not applicable to export certificates for cargo shipments except those certificates issued with respect to export cargo shipments loaded at export elevators or export loading facilities which do not meet the diverter-type mechanical sampling requirements of section 26.110(d) (3).) The amendment of section 26.59(b) (12) as shown will not change the certification requirements for inspection beyond those required by the amendment of section 26.110(d) (3).

As shown above, the amendment of section 26.59(b) (12) is necessary to afford relief for an extension of time beyond the May 1, 1976, deadline for those export elevators or export loading facilities which will not meet such deadline for installation of diverter-type mechanical samplers. Therefore, under the administrative procedures provisions of 5 U.S.C. 553, it is found that good cause exists to implement amendment of section 26.59(b) (12) without public notice and participation in rulemaking on such amendment, and that good cause is found for making the amendment of section 26.59(b) (12) effective less than 30 days after publication in the FEDERAL REGISTER.

After consideration of the written comments, views, or arguments filed with respect to the proposed amendment of section 26.110 and other information available, the Department is implementing the provisions of the proposed amendment of section 26.110, with changes as indicated; and for good cause, section 26.59(b) (12) is amended as indicated, as set forth below:

1. Section 26.110 is amended by revising paragraph (b) to include a reference to § 26.9; paragraph (d) (3) is rearranged for clarity and expanded into paragraphs (d) (3) and (4) (the previous paragraph (d) (4) is deleted as repetitive); and a new paragraph (d) (5) is added to provide a definition of "final loading conveyance" as follows:

§ 26.110 Mandatory inspection—export grain.

(b) *Who must obtain inspection.* The official inspection for official grade of export grain must be obtained by or for the exporter of record, unless a certificate sufficient for purposes of section 5 of the Act has previously been obtained. The conditions under which the grain is offered for inspection must meet the requirements of sections 26.9 and 26.11. If the grain is inspected at the time of loading, the carrier or stowage space(s) for the grain must be examined by official inspection personnel and found to be clean, dry, and free of insects, other vermin, commercially objectionable foreign odors, and other factors which could contaminate the grain or lower the grade of the grain.

(d) *Sampling requirements.* . . .

(3) After May 1, 1976, all bulk export cargo grain officially inspected shall be sampled by means of approved diverter-type mechanical samplers: *Provided*, That if an export elevator or export loading facility cannot meet the May 1, 1976, deadline for installation and approval of diverter-type mechanical samplers because of necessary construction or other conditions beyond the control of the elevator or facility the Administrator may:

(i) Upon written request by an export elevator or export loading facility for extension of time, review the circumstances of the request and, if warranted, grant an extension based on the circumstances of each request. Such extension shall be based on evidence in the written request that a diligent effort has been made to meet the May 1 deadline; but because of necessary construction or other conditions or circumstances beyond the control of the person or firm making the request, the installation and approval of diverter-type mechanical samplers cannot be achieved by the May 1, 1976, deadline.

(ii) Require in each case where an extension beyond the May 1, 1976, date is granted, that each official inspection certificate issued during such period of extension for a bulk export cargo lot at such export elevator or export loading facility shall contain the statement,

The lot of grain represented by this certificate was sampled by _____ (type of sampling method)

(iii) Require that if installation and approval of diverter-type mechanical samplers are not achieved by the requesting party during the period of extension beyond the May 1, 1976, date granted by the Administrator, each official inspection certificate issued after the termination of the allowed extension period at the export elevator or export loading facility shall contain the statement,

The lot of grain represented by this certificate was sampled by means of _____ (type of sampling method) and samples obtained by such method may not be as representative as those obtained by approved diverter-type mechanical samplers.

This statement will also be applicable to official inspection certificates issued for export cargo lots at export elevators or export loading facilities that have not installed approved diverter-type mechanical samplers by May 1, 1976, and are not granted an extension by the Administrator.

(iv) Provide that after installation and approval of diverter-type mechanical samplers at an export elevator or export loading facility, the method of sampling statement shall not be required to be shown on official export inspection certificates issued at that location.

(4) Bulk export cargo grain which is officially inspected shall be sampled as it is being loaded aboard the final carrier. The samples must be obtained as near as practicable to the end of the final loading conveyance, unless otherwise approved by the Administrator under such conditions as he determines will provide representative samples and maintain the integrity of the inspection service: *Provided*, That:

(i) All export elevators or export loading facilities where official inspection of bulk export cargo shipments of grain is performed shall be so constructed and operated that no grain or other material may be introduced or added to the stream of grain at any point from diverter-type mechanical samplers to the final carrier, except for those materials specifically approved by the Administrator under conditions prescribed in the instructions; e.g., the addition of an approved fumigant or pesticide to control insect infestation.

(ii) At export elevators or export loading facilities where diverter-type mechanical samplers are presently installed or located other than near the end of final loading conveyance, the Administrator may, if he determines that any means have been employed to circumvent such diverter-type mechanical samplers that affects the representativeness of samples obtained, require that the samplers be relocated as near as practicable to the end of the final loading conveyance.

(iii) For new export elevators or export loading facilities which begin construction after May 1, 1976, the diverter-type mechanical samplers installed to obtain official samples for inspection shall be installed as near as practicable to the end of the final loading conveyance.

(iv) If an export elevator or export loading facility which is presently operating begins renovation or remodeling after May 1, 1976, and such renovation or remodeling includes the area in which diverter-type samplers are already installed and will affect the sampling system; and if such diverter-type mechanical samplers are not located as near as practicable to the end of the final loading conveyance, the Administrator may, at the time of renovation or remodeling, require the diverter-type mechanical samplers to be relocated as near as practicable to the end of the final loading conveyance.

(v) The Administrator may waive such requirements for (A) classes of shipments of sacked grain which are imprac-

licable to sample with diverter-type mechanical samplers while grain is being loaded aboard or while it is in the final carrier, and (B) emergency situations such as mechanical or power failure.

(5) The term "final loading conveyance" shall be deemed to mean the mechanical equipment, device, or apparatus used to transport or move the grain from the elevator bins or tanks to the spout or device which directly delivers the grain into a container or carrier which will transport the grain from the United States.

2. Section 26.59 is amended by revising the parenthetical phrase in paragraph (b)(12) to provide for the showing of method of sampling on official inspection certificates for some export cargo lots, as follows:

§ 26.59 Official certificates (general requirements).

(b) Required statements.

(12) The date or dates the grain was sampled and the method of sampling the grain (This subparagraph is not applicable to export certificates for cargo shipments except those certificates issued with respect to export cargo shipments loaded at export elevators or export loading facilities which do not meet the diverter-type mechanical sampling requirements of section 26.110(d)(3).) (Sec. 12 and 16, 82 Stat. 766 and 768; 7 U.S.C. 87a and 87c; 37 FR 28464 and 28476.)

Effective date. The provisions of these amendments shall become effective June 2, 1976, except the provisions of sections 26.110(d)(3)(A), (B), (C), and (D), and section 26.59(b)(12) which will become effective May 3, 1976.

Done in Washington, D.C., on: April 29, 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc. 76-12846 Filed 4-30-76; 8:45 am]

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

[Lemon Regulation 37]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Preamble. This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 2-8, 1976. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.337 Lemon Regulation 37.

(a) **Findings.** (1) Pursuant to the marketing agreement, as amended, and

Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemons that may be marketed during the ensuing week confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons was good early this week but was easing by mid-week due to cooler weather over much of the U.S. Average f.o.b. price was \$6.35 per carton the week ended April 24, 1976, compared to \$6.47 per carton the previous week. Track and rolling supplies at 140 cars were the same as last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth, set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning

such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 27, 1976.

(b) **Order.** (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 2, 1976, through May 8, 1976, is hereby fixed at 270,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: April 30, 1976.

CHARLES R. BRADER,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[FR Doc. 76-12865 Filed 4-29-76; 11:32 am]

Title 12—Banks and Banking
CHAPTER III—FEDERAL DEPOSIT
INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND
STATEMENTS OF GENERAL POLICY

PART 337—UNSAFE AND UNSOUND
BANKING PRACTICES

Approval and Record Keeping Requirements Pertaining to Insider Transactions; Correction

In F.R. Doc. 76-5911 appearing at page 8946 in the issue of Tuesday, March 2, 1976, make the following change on page 8948: In the seventh line of section 337.3 (a) (3), insert the word "person" in lieu of the word "bank".

Dated: April 27, 1976.

[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc. 76-12762 Filed 4-30-76; 8:45 am]

CHAPTER V—FEDERAL HOME LOAN
BANK BOARD

[No. 76-296]

PART 545—OPERATIONS

PART 556—STATEMENTS OF POLICY

Amendments Relating to Late Charges and Due-on-Sale Clauses

Summary. The following summary of the amendments adopted by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the amendments.

I. Present Situation. The Federal Home Loan Bank Board permits Federal associations, if authorized by their loan contracts, to assess, impose, and collect late charges respecting delinquent periodic installment payments on such loans, and to declare the loan immedi-

ately due and payable if the borrower sells or transfers the real property securing the loan without the consent of the association.

II. Final Amendment. A. A Federal association continues to be empowered to include, as a matter of contract between it and the borrower, provisions in its loan contracts for assessment, imposition, and collection of a late charge respecting any delinquent periodic installment payment, and for the acceleration of the maturity of the loan, at the option of the association, if the borrower sells or transfers the loan security property without prior written consent of the association.

B. Limits are placed on the imposition and maximum amount of late charges which may be collected by a Federal association on future loans secured by borrower-occupied homes.

C. Restrictions are placed on exercise of acceleration (due-on-sale) clauses contained in future loan contracts secured by borrower-occupied homes.

III. Differences from Proposal. A. Late charges 1. A late charge may be imposed if an installment payment is not received by the association within the grace period; proposal used date-of-payment concept, including payment by deposit in the mail.

2. The alternative seven-day delinquency notice requirement in proposal is deleted; associations are required to make disclosure of late-charge provisions in any monthly billings.

3. A new Statement of Policy is issued regarding disclosure and imposition of late charges in connection with existing loans.

B. Due-on-sale Clauses. A new Statement of Policy is issued regarding exercise of due-on-sale clauses and loan assumptions.

C. Effective Date. Effective date is 7/31/76; proposal specified 5/31/76.

By Resolution No. 76-100 of February 6, 1976, the Federal Home Loan Bank Board proposed to amend § 545.6-11 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.6-11) for the purposes of clarifying and limiting the authority of Federal savings and loan associations in the area of late charges and due-on-sale clauses. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on February 12, 1976 (41 FR 6283-6287), with an invitation for interested persons to submit comments by March 22, 1976. On the basis of all relevant material presented by interested persons and otherwise available, the Board hereby adopts the changes as proposed, with modifications discussed below.

New paragraph (d) setting forth the authority of Federal associations to impose and collect late charges, is adopted substantially as proposed, except for a changed date reference.

Paragraph (e) relating to limitations on late charges, is adopted substantially as proposed, with certain modifications. The effective date of the limitations is July 31, 1976, rather than May 31, 1976, as proposed, to allow for an orderly

transition and alteration of mortgage forms. Periodic installment payments must be received by the association within the 15-day grace period (or the next business day if such grace period ends on a weekend or holiday) to avoid imposition of late charges; the proposal would have exempted installment payments deposited in the mail during the grace period. The modification is intended to alleviate confusion and expense related to ascertainment of payment date. Paragraph (e) provides further that any monthly billing, coupon, or other notice which an association may provide regarding installment payments due shall disclose the date after which a late charge may be assessed. The proposal would have required a seven-day notice as an alternative to disclosure through monthly billing, but the Board is persuaded that such notice is unnecessary in light of the disclosure made at other times by Federal associations, including disclosure at the time of loan closing. Paragraph 556.9(a) of the new Statement of Policy adopted today emphasizes the duty of associations to disclose this information.

Subdivision (e)(1)(iv) of § 545.6-11 provides that late charges may not be assessed more than one time for the late payment of any one installment; this is unchanged from the proposal and means that a borrower bringing current a loan which is 90 days delinquent could not be required to pay three late charges on the payment 90 days overdue, two late charges on the payment 60 days overdue, and one late charge on the payment 30 days overdue, but rather three late charges in all. Subdivision 545.6-11(e)(2) provides that installment payments must be applied to the longest outstanding installment due; this is unchanged from the proposal and means that, in the example of the loan 90 days delinquent, the first payment is applied to the installment 90 days in arrears, the next to the installment 60 days in arrears, etc.

The last sentence of proposed paragraph (e), relating to limitations and restrictions on late charges imposed on loans made before July 31, 1976, has been removed from this provision and appears as part of the new Statement of Policy adopted herein at § 556.9(b).

Paragraphs (f) and (g) of § 545.6-11, relating to Federal associations' authority regarding due-on-sale clauses, are adopted substantially as proposed, with some portions re-written or re-numbered for clarification purposes only. The effective date of the limitations is July 31, 1976.

A new Statement of Policy clarifying and interpreting the Board's policies pertaining to late charges and due-on-sale clauses is adopted by the Board at § 556.9. Paragraph (a) expresses the Board's view that all contract terms affecting the borrower should be fully disclosed no later than the time of loan closing. Paragraph (b)(1) states that the Board disfavors the practice of imposing prepayment charges upon exercise of due-on-sale clauses with regard to loans made prior

to August 1, 1976, on the security of borrower-occupied homes, and urges associations to curtail this practice in connection with such earlier loans in the absence of extraordinary circumstances. Paragraph (b)(2) describes considerations relevant to imposition of late charges with regard to loans made prior to August 1, 1976. Paragraph (c) expresses the Board's view that there may be circumstances other than those described in § 545.6-11(g)(1) where an association should consider waiver of its acceleration option. Paragraph (d) states the Board's expectation that, in transactions covered by the loan assumption provision of § 545.6-11(g)(3), associations should not increase interest rates to rates in excess of current-market interest rates for comparable loans made by the associations applying their normal underwriting standards. New paragraph (e) states the Board's interpretation with respect to maintenance of mortgage insurance in connection with the requirements of paragraph 545.6-11(g)(3).

Finally, it was and is the Board's intent to have late charges and due-on-sale practices of Federal associations governed exclusively by Federal law. Therefore, charging of late charges and exercise of due-on-sale clauses by Federal associations shall be governed and controlled solely by § 545.6-11 and the Board's new Statement of Policy. Federal associations shall not be bound by or subject to any conflicting State law which imposes different late charges or due-on-sale requirements, nor shall Federal associations attempt to impose a higher late charge than permitted in § 545.6-11(e) or avoid the limitations on the exercise of due-on-sale clauses delineated in § 545.6-11(g) on the ground that such higher charge or avoidance of limitations is permissible under State law.

Accordingly, the Board hereby revises § 545.6-11 and adds § 556.9 to read as set forth below, effective June 8, 1976.

1. Section 545.6-11(d) is revised to read as set forth below:

§ 545.6-11 Loan contract.

(d) *Late charges.* A Federal association continues to have the power to include, as a matter of contract between it and the borrower, a provision in its loan instruments for assessment, imposition, and collection of a late charge respecting payment of any delinquent periodic installment loan. Such contractual late charge may be in the form of an increased rate of interest on the unpaid balance of the loan (or a part thereof) for the period of delinquency, a percentage of the delinquent periodic installment payment (or a part thereof), a fixed dollar amount, or such other form as may be necessary and appropriate for full protection of the association. The contractual late charge, regardless of its form, shall not be considered as interest to the association. Late charges shall not be deducted by a Federal association from regular periodic installment pay-

ments on the loan, but rather collected as such from the borrower. Except as provided in paragraph (e) of this section with respect to loans made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, assessment, imposition, and collection of a late charge respecting any loan made by a Federal association shall be exclusively governed by the terms of the contract between such association and the borrower. Collection of a late charge shall not impair, alter, or abrogate any other right of the Federal association granted by contract or law respecting delinquent installment payments.

(e) *Limitations on the late charges.* (1) With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, no late charge, regardless of the form of late charge contained in the loan instruments, shall be assessed or collected by a Federal association:

(i) as to any periodic installment payment received by it within 15 days after the due date of such payment; provided, that if the 15-day period ends on a weekend or holiday such period is extended to the next business day;

(ii) in a dollar amount which exceeds the equivalent of 5 percent of the aggregate amount of principal and interest included in the delinquent periodic installment payment; however, a Federal association shall in no case impose or seek to impose a late charge greater than that provided for by contract with the borrower;

(iii) unless any monthly billing, coupon, or notice which an association may provide regarding installment payments due on the loan discloses the date after which a late charge may be assessed; or

(iv) more than one time for late payment of the same installment.

(2) Any installment payment made by the borrower shall be applied to the longest outstanding installment due.

(3) A Federal association, in an appropriate case, may elect to waive all or any portion of an authorized late charge.

(f) *Due-on-sale clauses.* A Federal association continues to have the power to include, as a matter of contract between it and the borrower, a provision in its loan instruments whereby the association may, at its option, declare immediately due and payable all of the sums secured by the association's security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the association's prior written consent. Except as provided in paragraph (g) of this section with respect to loans made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, exercise by an association of such an acceleration option (hereafter called a due-on-sale clause) shall be governed exclusively by the terms of the contract between the association and the borrower, and all rights and remedies of the association and borrower thereto shall be fixed and governed by said contract.

(g) *Limitations on the exercise of due-on-sale clauses.* (1) With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, a Federal association may not exercise a due-on-sale clause based on any of the following:

(i) creation of a lien or other encumbrance subordinate to the association's security instrument;

(ii) creation of a purchase money security interest for household appliances;

(iii) transfer by devise, descent, or by operation of law upon the death of a joint tenant; or

(iv) grant of any leasehold interest of three years or less not containing an option to purchase.

(2) With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, no Federal association shall impose a prepayment charge or equivalent fee in connection with the acceleration of the loan pursuant to the exercise of a due-on-sale clause.

(3) With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, a Federal association shall have waived its option to exercise a due-on-sale clause as to a specific transfer if, prior to that transfer, the association and the person to whom the property is to be sold or transferred (the existing borrower's successor in interest) reach written agreement that the credit of such person is satisfactory to the association and that the interest payable to the association on sums secured by its security instrument shall be at such rate as the association shall request. Upon such written agreement and resultant waiver, the association shall release such existing borrower from all obligations under the loan instruments, and for purposes of § 541.14(a) the association shall be deemed to have made a new loan to such existing borrower's successor in interest.

2. Section 556.9 is added to read as set forth below:

§ 556.9 Imposition of late charges and due-on-sale clauses.

(a) The Board allows Federal savings and loan associations certain authority to incorporate into loan instruments provisions for imposition of late charges, prepayment charges, and exercise of acceleration clauses, including due-on-sale clauses. The Board expects associations to adopt procedures sufficient to ensure that, no later than the time of loan closing, the rights and obligations of the contracting parties under these provisions are fully and specifically disclosed to borrowers.

(b) (1) Imposition of a prepayment charge upon exercise of a due-on-sale clause is prohibited pursuant to § 545.6-11(g)(2) of this subchapter only with regard to loans made upon borrower-occupied homes after July 31, 1976; however, the Board looks with disfavor upon such practice respecting all loans made on the security of borrower-occupied homes, and believes that associations should abstain therefrom in connection

with such loans made before such date, except in extraordinary circumstances.

(2) Although there is no maximum limitation on the amount of late charges which a Federal association may assess or collect, pursuant to contract, on loans made prior to August 1, 1976, on the security of borrower-occupied homes, the Board expects associations to continue to be reasonable and fair in assessing, imposing, and collecting late charges against delinquent borrowers as to such loans, taking into consideration the reason for the delinquency, and the past practice of the borrower respecting delinquencies.

(c) Paragraph 545.6-11(g)(1) of this subchapter prohibits with respect to borrower-occupied-home loans made after July 31, 1976, exercise of due-on-sale clauses to accelerate the loan based on creation of junior liens, certain purchase-money security interests, transfers by devise, descent, or by operation of law upon the death of a joint tenant, and certain short-term leasehold interests. However, the Board believes that there may be other situations respecting loans made on the security of borrower-occupied homes in which, depending on the circumstances of the individual case, it will be appropriate for Federal associations to waive their contractual right to accelerate. These situations include transfers of title to members of the borrower's immediate family, including a former spouse in connection with a divorce, who occupy or will occupy the property (to the extent not covered by paragraph 545.6-11(g)(1)(iii)). In addition, associations should consider waiving any right to require an increase in interest rate pursuant to a due-on-sale clause in cases of extreme hardship to the existing borrower.

(d) Paragraph 545.6-11(g)(3) of this subchapter authorizes Federal associations to increase the interest rate as a condition of loan assumption. However, the Board expects that no association will request an increase in the interest rate to a rate in excess of the then prevailing rate on comparable new loans made by the association applying its normal underwriting standards.

(e) The Board does not interpret paragraph 545.6-11(g)(3) of this subchapter to preclude an association from requiring, as a condition to an assumption, the continued maintenance of mortgage insurance by the existing borrower's successor in interest, whether by endorsement of a policy previously procured by the existing borrower or by entrance into a new contract of insurance.

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

By the Federal Home Loan Bank Board.

[SEAL]

J. J. FINN,
Secretary.

[FR Doc. 76-12791 Filed 4-30-76; 8:45 am]

Title 14—Aeronautics and Space
CHAPTER 1—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 76-GL-17]

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

Cairo, Ill., Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Cairo, Illinois.

With the designation of the 1,200 foot transition area throughout the State of Missouri, the 1,200 foot transition area at Cairo, Illinois, is no longer required.

Since this alteration is minor in nature, compliance with the notice and public procedure provisions of the Administrative Procedures Act is unnecessary.

It being determined that good cause, with respect to safety in air commerce and air transportation, exists for making this rule effective less than 30 days after publication, this amendment shall be effective 0901 G.m.t. May 13, 1976.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In Section 71.181 (41 F.R. 440) the following transition area is amended to read:

CAIRO, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Cairo Airport (latitude 37°03'50" N., longitude 89°13'15" W.); and within 3 miles each side of the 032° bearing from the airport extending from the 5½-mile radius to 8 miles northeast of the airport.

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

Issued in Des Plaines, Illinois, on April 22, 1976.

JOHN TRUHAN,
Acting Director,
Great Lakes Region.

[FR Doc.76-12558 Filed 4-30-76;8:45 am]

[Airspace Docket No. 76-SW-8]

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

Brinkley, Ark.; Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a transition area at Brinkley, Ark.

On March 15, 1976, a notice of proposed rule making was published in the FEDERAL REGISTER (41 F.R. 10916) stating the Federal Aviation Administration proposed to designate a transition area at Brinkley, Ark.

Interested persons were afforded an opportunity to participate in the rule

making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 15, 1976, as hereinafter set forth.

In Section 71.181 (41 F.R. 440), the following transition area is added:

BRINKLEY, ARK.

That airspace extending upward from 700 feet above the surface within a 7-statute-mile radius of Frank Federer Memorial Airport, Brinkley, Ark. (latitude 34°52'45" N., longitude 91°10'40" W.); and within 3.5 statute miles each side of the 030° bearing from Brinkley NDB (latitude 34°52'49" N., longitude 91°10'43" W.), extending from the 7-mile-radius area to 11.5 statute miles northeast of the NDB.

(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 Fort Worth, Tex., on April 21, 1976.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.76-12559 Filed 4-30-76;8:45 am]

[Airspace Docket No. 76-GL-2]

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

New Castle, Ind., Alteration of Transition

On page 9368 of the FEDERAL REGISTER dated March 4, 1976, 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 alter the transition area at New Castle, Indiana.

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

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following changes:

The airport name is changed from New Castle-Henry County Municipal Sky Castle Airport to Sky Castle Airport.

The airport coordinates are corrected to read: Latitude 39°52'34" N., Longitude 85°19'37" W.

This amendment shall be effective 0901 GMT, July 15, 1976.

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

Issued in Des Plaines, Illinois, on April 13, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

In § 71.181 (41 F.R. 440), the following transition area is amended to read:

NEW CASTLE, INDIANA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sky Castle Airport (latitude 39°52'34" N., longitude 85°19'37" W.); and within 3 miles

either side of a 260° bearing from the airport, extending from the 6-mile radius to 8 miles west of the airport.

[FR Doc.76-12560 Filed 4-30-76;8:45 am]

[Airspace Docket No. 76-GL-5]

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

Effingham, Ill.; Alteration of Transition Area

On page 9371 of the FEDERAL REGISTER dated March 4, 1976, 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 Effingham, 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 with change and is set forth below.

This amendment shall be effective 0901 G.m.t., July 15, 1976.

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

Issued in Des Plaines, Illinois on April 15, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

In § 7.8 (41 FR 400), the following transition area is amended to read:

EFFINGHAM, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Effingham County Memorial Airport (latitude 39°04'15" N., longitude 88°32'15" W.); within 1½ miles either side of the 344° radial of the Bible Grove VORTAC extending from the 5-mile radius to the Bible Grove VORTAC.

[FR Doc.76-12561 Filed 4-30-76;8:45 am]

[Docket No. 75-EA-84; Amdt. 39-2598]

PART 39—AIRWORTHINESS DIRECTIVE
Piper Aircraft

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

There have been reports of the collapse of landing gear on the subject aircraft after the gear has been extended manually.

Since this deficiency can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which will require an alteration of the gears.

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 Aircraft Corporation. Applies to airplanes PA-24-180, PA-24-250, and PA-260, Serial Numbers 24-1 to 24-4782 and 24-4784 to 24-4803 inclusive; PA-24-400, Serial Numbers 26-2 to 26-148 inclusive; and PA-30, Serial Numbers 30-1 to 30-1744 inclusive, certificated in all categories.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished. To prevent possible collapse of the landing gear after manual extension, install Kit No. 760627 as described in Piper Aircraft Corporation Service Spares Letter #SP-325, dated February 12, 1973, or an equivalent alteration approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective May 7, 1976.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, NY, on April 23, 1976.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.76-12742 Filed 4-30-76;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-12372]

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

Temporary Exemption From Broker-Dealer Registration for Certain Exchange Members

The Commission has adopted Rule 15a-4 under Section 15(a)(2) of the Securities Exchange Act of 1934 (the "Act") which provides a temporary exemption from the broker-dealer registration requirement contained in Section 15 of the Act for certain members of national securities exchanges. Rule 15a-4 was published for comment on January 27, 1976.¹ The comment period expired on March 26, 1976. Two comment letters were received which were from the New York Stock Exchange, Inc. ("NYSE") and the American Stock Exchange, Inc. ("Amex").² NYSE and Amex recommended adoption of the rule.

The Securities Acts Amendments of 1975 (Pub. L. No. 94-29 (June 4, 1975)) amended Section 15 of the Act, in effect, to require by December 1, 1975, persons effecting transactions exclusively on a national securities exchange to register with the Commission as broker-dealers. Rule 15a-4 provides a temporary exemption from the broker-dealer registration requirement for a member of an exchange who becomes disassociated from a registered broker-dealer and who has filed Form BD. The exemption permits the exchange member to continue, with the written consent of the exchange submitted to the Commission with Form BD, to transact business on the floor of the exchange prior to the time that an order granting such registration as a broker-dealer has been issued by the Commission. Such exemption is not available to any person while there is pending before the Commission any proceeding pursuant to Section 15(b)(1)(B) involving such person.

17 CFR Ch. II, Part 240 is amended by adding § 240.15a-4 as follows:

§ 240.15a-4 Forty-five day exemption from registration for certain members of national securities exchanges.

(a) A natural person who is a member of a national securities exchange shall, upon termination of his association with a registered broker-dealer, be exempt, for a period of forty-five days after such termination, from the registration requirement of Section 15(a) of the Act solely for the purpose of continuing to effect transactions on the floor of such exchange if (1) such person has filed with the Commission an application for registration as a broker-dealer and such person complies in all material respects with rules of the Commission applicable to registered brokers and dealers and (2) such exchange has filed with the Commission a statement that it has reviewed such application and that there do not appear to be grounds for its denial.

(b) The exemption from registration provided by this rule shall not be available to any person while there is pending before the Commission any proceeding involving any such person pursuant to Section 15(b)(1)(B) of the Act.

The Commission finds Rule 15a-4 does not impose unnecessary burdens on competition. Pursuant to authority in Section 15 of the Act, the Commission hereby adopts Rule 15a-4. Since Rule 15a-4 grants an exemption, it is effective immediately.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1976.

[FR Doc.76-12713 Filed 4-30-76;8:45 am]

[Release No. 34-12361]

PART 202—INFORMAL AND OTHER PROCEDURES

Review of Summary Trading Suspension

The Securities and Exchange Commission today announced the adoption of in-

formal procedures, effective immediately, by which persons may obtain Commission review of summary trading suspensions, as indicated below.

§ 202.3 Summary suspensions.

Any person adversely affected by a summary suspension pursuant to section 12(k) of the Securities Exchange Act may obtain prompt consideration by the Commission of the reasons such person believes the continued suspension is not in the public interest or is not required for the protection of investors. Section 12(k) authorizes the Commission summarily to suspend trading in securities for 10-day periods, if in its opinion the public interest or the protection of investors so requires.

The usual purpose of a suspension is to alert the investing public to the fact that there is insufficient public information about the issuer upon which an informed investment judgment can be made or that the market for the securities may be reacting to manipulative forces or deceptive practices. Consequently the primary issues normally to be considered by the Commission in determining whether or not 10-day suspensions should be instituted or renewed are whether or not there is sufficient public information upon which to base an informed investment decision or whether the market for the security appears to reflect manipulative or deceptive activities.

If any person adversely affected by such suspension or who would be adversely affected by the renewal of the suspension desires to show that such suspension is not necessary in the public interest or for the protection of investors, he may petition the Commission that it not renew the suspension. Such petition, which may be in the form of a letter or other statement, should set forth with particularity the facts upon which petitioner relies and should be sworn to by the petitioner or an authorized officer of the petitioner.

If the petitioner so requests in the petition, and if upon examination of the petition the Commission is of the opinion that there is a genuine issue as to any material fact, the Commission will provide an opportunity for prompt presentation of all material facts. If no such opportunity is requested in the petition or if in the opinion of the Commission there is no genuine issue as to any material fact, the Commission will determine the issue upon the basis of the information contained in the petition and any other relevant facts known to the Commission.

The Commission will not be disposed to grant such petition if the petitioner or anyone affiliated with the petitioner shall fail to cooperate in supplying relevant information to the Commission or shall in any way obstruct any inquiry by the Commission into the relevant facts.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 22, 1976.

[FR Doc.76-12709 Filed 4-28-76;11:24 am]

¹ Securities Exchange Act Release No. 12053. [41 FR 5135 (Feb. 4, 1976)].

² Securities and Exchange Commission File No. S7-612.

Title 21—Food and Drugs

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

[Docket No. 76N-0127]

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

Increase in Antibiotic Certification Fees

The Food and Drug Administration (FDA) is increasing the fees for certifying antibiotic drugs for human and animal use by adding a fee of \$85 for each batch of drugs submitted for certification. In addition, FDA is revising the fees now provided for in the regulations and increasing the fee for supplemental requests. These increases are necessary because of a general increase in all costs of operating the certification program.

The current fee schedule specified in the regulations became effective on July 1, 1973. Since that time there has been a general increase in employees' salaries and in the cost of operating laboratories. Through the first 7 months of fiscal year 1976 (July 1, 1975 through February 1976) the certification program has incurred an operating deficit of \$450,000. Using current fees, this deficit can be expected to exceed \$600,000 by June 1976.

Sections 507(b) (5) and 512(n) (2) (D) of the Federal Food, Drug, and Cosmetic Act require that fees adequate to maintain an antibiotic certification program be specified in agency regulations. As is evidenced by the deficit incurred thus far in fiscal year 1976, the current fee schedule is insufficient to provide, equip, and maintain an adequate certification service. Therefore, an immediate increase is necessary.

The current fee schedule for the certification tests in § 431.53(b) (1) (21 CFR 431.53(b) (1)) reflects all of the costs involved in the certification program. These include the costs for reviewing data and issuing certificates, for carrying out research, and for conducting establishment inspections associated with certification. In the revised schedule published in this regulation, the test fees are based solely on the cost of the tests performed. The fee of \$85 for each batch of drugs submitted is intended to cover the other costs involved in the certification program, which, under the revised schedule, are separated from the actual costs of performing the tests. As a result, some of the individual test fees are reduced. The charge for issuance of supplemental certificates is increased from \$8 to \$50 to recover the true cost of the procedure.

The institution of the \$85 fee for each batch of drugs submitted for certification and the increase in the charges for the issuance of supplemental certificates will provide sufficient funds to maintain an adequate certification program.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-350 (21 U.S.C. 357, 360b)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120),

Part 431 is amended in § 431.53 by revising the introductory text of paragraph (b), and paragraph (b) (1) and (2) to read as follows:

§ 431.53 Fees.

(b) The fee for such services with respect to each batch of a drug, certification of which is provided by the regulations in this chapter, shall be \$85 for each batch submitted, plus the sum of the fees for all individual tests required for certification of each batch. The minimum tests for each batch shall be those prescribed in the section relating specifically to such drug.

(1) The fee schedule for specific tests required for antibiotic drug certification is as follows:

Test:	Chargeable fee per test
Arquad content	\$20
Benzylpenicilloyl content	30
Bleomycin	1,206
Butanol content	48
Candicidin potency (special turbidimetric)	70
Capreomycin I content	121
Color identity	7
Column chromatographic isomer content	60
Copper content	20
Crystallinity	3
Cycloserine color assay	27
Disc potency	43
Doxycycline purity (paper chromatography)	121
Facsimile transmission of antibiotic certificates	1,25
Free chloride	50
Gas chromatography	29
Gentamicin C	161
Heavy metals test	13
High pressure liquid chromatography (HPLC)	50
Histamine test	48
Infrared identity	17
Infrared quantitative	35
Iodochlorhydroxyquin content	20
Isoniazid content	20
Karl Fischer moisture	7
LD ₅₀ toxicity	221
Loss on drying	11
Lysine content	161
Melting range	7
Metal particles (ophthalmic ointments)	20
Microbiological assay, plate	22
Microbiological assay, turbidimetric	13
Microorganism count	68
Minocycline content	121
Nonaqueous titrations (and compleximetric)	20
Paper chromatographic identity	40
Penicillenate and penamaldate content	30
Penicillin chemical assay	13
Penicillin contamination	32
Penicillin G content	30
pH	3
Potency (special plate)	75
Probenecid content	30
Procaine colorimetric	7
Pyrogens test: 3 rabbits	86
Pyrogens test: 8 rabbits	172
Quantitative thin layer chromatography	80
Residual streptomycin	7
Residue on ignition	24
Safety test	33
Solubility identification	50
Specific rotation	20

Test:	Chargeable fee per test
Specific rotation (potency quantitative)	40
Specific surface area	20
Sterility test	68
Sulfate content	8
Tablet disintegration	5
Thin layer chromatographic identity	40
Total chlorine	110
Undecylenic acid content	17
Ultraviolet absorptivity	30
Ultraviolet identity	30
Ultraviolet potency	30
Vancomycin identity (bioautograph)	96
Zinc titration	10

(2) The fee for a supplemental request submitted pursuant to the provision of § 433.12 of this chapter shall be \$50.

Since the amendment established by this regulation is necessary to provide, equip, and maintain an adequate antibiotic drug certification service, the Commissioner finds that notice and public procedure and delayed effective date are contrary to the public interest. Interested persons may, on or before July 2, 1976 file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments in quintuplicate on this order. Comments received will be available in the office of the Hearing Clerk. Any changes in this order justified by such comments will be the subject of a further order.

Effective date. This amendment shall be effective May 3, 1976.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-350 (21 U.S.C. 357, 360b).)

Dated: April 27, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 76-12729 Filed 4-30-76; 8:45 am]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

SUBPART M—ORGANIZATION

Field Structure

The Food and Drug Administration is amending § 2.175 (21 CFR 2.175), which sets forth field structure. The amendment revises listings for various regions, effective May 3, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055-1056 (21 U.S.C. 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 2 is amended in § 2.175 by revising the listings for the following regions:

§ 2.175 Field structure.

REGION II

Regional Field Office: 850 Third Avenue, Brooklyn, NY 11232.
District Office: 850 Third Avenue, Brooklyn, NY 11232.

District Office: 599 Delaware Avenue,
Buffalo, NY 14202.
District Office: 20 Evergreen Place, East
Orange, NJ 07018.
District Office: Post Office Box S-4427,
San Juan Station, San Juan, PR 00905.

REGION VI

Regional Field Office: 3032 Bryan Street,
Dallas, TX 75204.
District Office: 3032 Bryan Street, Dallas,
TX 75204.
District Office: Room 222, 423 Canal
Street, New Orleans, LA 70130.
Houston Section: Suite 250, 1440 North
Loop, Houston, TX 77009.

REGION VII

Regional Field Office: 1009 Cherry Street,
Kansas City, MO 64106.
District Office: 1009 Cherry Street, Kan-
sas City, MO 64106.

REGION VIII

Regional Field Office: 721 19th Street,
U.S. Customhouse, Denver, CO 80202.
District Office: 721 19th Street, U.S. Cus-
tomhouse, Denver, CO 80202.

REGION X

Regional Field Office: Room 5003, 909
First Avenue, Seattle, WA 98104.
District Office: Room 5003, 909 First
Avenue, Seattle, WA 98104.

Effective date. This amendment shall
be effective May 3, 1976.

(Sec. 701(a), 52 Stat. 1055-1056 (21 U.S.C.
371(a)).)

Dated: April 27, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.76-12730 Filed 4-30-76;8:45 am]

[Docket No. 76N-0130]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS Red Blood Cells (Human)

The Food and Drug Administration
is amending the biologics regulations
governing the manufacture of Red
Blood Cells (Human) by deleting the re-
quirements concerning (1) the check on
sterile technique and (2) the time period
within which red blood cells must be
separated from plasma by centrifuga-
tion. Effective on May 3, 1976; comments
by June 2, 1976.

The general requirements for the
manufacture of Red Blood Cells (Hu-
man) provide, in § 640.11(a) (21 CFR
640.11(a)), that a check on sterile tech-
nique shall be made on at least one con-
tainer of Red Blood Cells (Human) each
month, if the red blood cells are prepared
in a vented or open system. The check
on sterile technique is conducted to
monitor the risk of environmental con-
tamination and any subsequent growth
of microorganisms during storage. How-
ever, due to technological advances and
increased availability of equipment, most

blood banking establishments currently
use disposable plastic containers which
do not require venting or entry, other
than at the terminal end of the integral-
ly attached tubing, for plasma separa-
tion. The current procedure for separ-
ating plasma from red blood cells in an
open system using modern plastic equip-
ment all but eliminates the possibility
of environmental contamination, there-
by negating the need for a continuing
check on sterile technique. In addition,
since, under § 610.53 (21 CFR 610.53),
the Red Blood Cells (Human) made in
any open system must be used within 24
hours after the plasma is removed, sig-
nificant growth of microorganisms dur-
ing this short storage period is unlikely.

For these reasons and because all
blood banking establishments are now re-
quired to comply with the standards of
current good manufacturing practice
(GMP) for blood and blood components,
21 CFR Part 606, the Commissioner of
Food and Drugs concludes that it is no
longer necessary to require a check on
sterile technique on Red Blood Cells
(Human). Accordingly, the Commission-
er is amending § 640.11 by deleting para-
graph (a) and redesignating paragraphs
(b) and (c) as paragraphs (a) and (b)
respectively; § 640.17 is amended by
cross-reference.

The biologics regulations also require,
in § 640.16(a) (21 CFR 640.16(a)), that
Red Blood Cells (Human) must be sepa-
rated from plasma no later than 6 days
after the date of blood collection, if such
separation is conducted by centrifuga-
tion. This requirement was established to
ensure adequate red blood cell survival
in blood collected in glass evacuated
containers. However, almost all blood
banking establishments now use only
plastic containers rather than glass
evacuated containers. Thus, the neces-
sity for the requirement no longer exists.
This has been confirmed in a study con-
ducted by W. V. Miller and M. J. Wilson
on the effects of centrifugation on
erythrocytes, published in *Transfusion*,
Vol. 14, pages 278-282 (1974), demon-
strating red blood cell survival when
blood is collected in plastic containers
and separated from the plasma within 21
days after collection of the whole blood.

Accordingly, the Commissioner con-
cludes that there is no longer a need to
require that Red Blood Cells (Human)
be separated from plasma within 6 days
if centrifugation is used, and § 640.16 is
amended accordingly.

Therefore, under the Public Health
Service Act, (sec. 351, 58 Stat. 702, as
amended, (42 U.S.C. 262)) and under
authority delegated to the Commissioner
(21 CFR 2.120), Part 640 of subchapter
F of Title 21 of the Code of Federal Reg-
ulations is amended as follows:

§ 640.11 [Amended]

1. In § 640.11 by deleting paragraph
(a) and designating existing paragraphs
(b) and (c) as paragraphs (a) and (b)
respectively.

2. In § 640.16 by amending paragraph
(a) to read as follows:

§ 640.16 Processing.

(a) *Separation.* Within 21 days from
date of blood collection, Red Blood Cells
(Human) may be prepared either by cen-
trifugation done in a manner that will
not tend to increase the temperature of
the blood or by normal undisturbed sedi-
mentation. A portion of the plasma suffi-
cient to ensure optimal cell preservation
shall be left with the red cells except
when a cryoprotective substance is added
for prolonged storage.

§ 640.17 [Amended]

3. In § 640.17 by changing the refer-
ence in the last sentence to "Section
640.11(b) and (c)" to read, "Section
640.11(a) and (b)."

Pursuant to the Administrative Proce-
dures Act (5 U.S.C. 553(b) and (d)) the
Commissioner concludes that notice, pub-
lic procedure, and delayed effective date
are unnecessary for the promulgation of
this regulation since it does not impose
an additional duty or burden on any
person, but rather relieves unnecessary
requirements. Comments will neverthe-
less be received on or before June 2, 1976
and may justify further modification of
these provisions.

Effective date. This regulation shall
become effective on May 3, 1976.

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

Dated: April 26, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.76-12731 Filed 4-30-76;8:45 am]

[Docket No. 76N-0090]

PART 610—FEDERAL BIOLOGICAL PRODUCTS STANDARDS

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

Cholera Vaccine

The Food and Drug Administration
(FDA) is issuing final regulations con-
cerning additional standards for the
manufacture of Cholera Vaccine, effec-
tive June 2, 1976.

The Commissioner of Food and Drugs
proposed, in a proposal published in the
FEDERAL REGISTER of September 24, 1974
(39 FR 34297), to amend the biologics
regulations by adding new additional
standards for the manufacture of Cholera
Vaccine. The standards contain many of
the provisions of the "Recommendations
Relating to the Manufacture of Cholera
Vaccine," which were published in un-
codified form in 1964 by the Department
of Health, Education, and Welfare and
have been used since then for licensing
the production and distribution of Chol-
era Vaccine. The standards also reflect
changes and additions of more recent
experience and development of scientific
knowledge in the field. Interested persons
were given until November 25, 1974, to
file written comments with the Hearing
Clerk, Food and Drug Administration.
Four letters, each containing a number

of comments, were received. The comments and the Commissioner's responses are as follows:

1. One comment on proposed § 620.31 (a) asked whether currently licensed manufacturers are required to conduct controlled field studies if they are using Ogawa Strain 41 and Inaba Strain 35A3, which were obtained from the Bureau of Biologics.

The Commissioner advises that the Ogawa Strain 41 and Inaba Strain 35A3 distributed by the Bureau of Biologics have been shown in controlled field studies to yield a vaccine of satisfactory potency. Therefore, those licensed manufacturers of Cholera Vaccine using these strains of bacteria for production are not required to repeat the controlled field studies.

2. Two comments on proposed § 620.31 (d) requested copies of the assay method for determining nitrogen precipitable by the addition of trichloroacetic acid. Both comments suggested that the method used by the Bureau of Biologics should be described in the Cholera Vaccine regulations to promote uniformity in the testing for nitrogen.

The Commissioner is of the opinion that it is unnecessary to specify one method to make this determination. Rather, each manufacturer, with the approval of the Director, Bureau of Biologics, should have the choice of using any method that has been shown to be equivalent to, or better than, the method used by the Bureau of Biologics. Accordingly, the comments are rejected, and no change is made in § 620.31(d) of the final regulation. Copies of the particular method used by the Bureau of Biologics have been provided to the commentators and are available, upon request, to any other person from the Director, Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20014.

3. One comment on proposed § 620.32 (a) noted that it does not clearly require that only the U.S. Standard Cholera Vaccine serotypes need be reconstituted in determining the potency of cholera vaccine.

The Commissioner agrees that the intent of proposed § 620.32(a) may not be clear. Accordingly, § 620.32(a) is amended in the final regulation to state directly that the U.S. Standard Cholera Vaccine, Ogawa serotype, and U.S. Standard Cholera Vaccine, Inaba serotype, shall be reconstituted as directed for determining the potency of Cholera Vaccine.

4. One comment on proposed § 620.32 (b) suggested that the opacity standard be defined so that a suspension of the vaccine having the equivalent opacity of 10 units shall contain 4,000 million bacteria per milliliter and the equivalent of 1,500 million colony-forming units per milliliter. The comment gave no explanation for the need to include such definition in the additional standards.

The Commissioner has required in proposed § 620.31(c) that the number of bacteria in each separate bacterial harvest shall be determined by the U.S.

Opacity Standard. The nitrogen content limitation prescribed in proposed § 620.31(d) is intended to prevent excessive concentrations of bacteria in the vaccine, while the potency tests prescribed in proposed § 620.33 are intended to assure minimal concentration of bacteria in the vaccine necessary to produce the intended effect. The opacity standard provides a rapid means of standardizing the concentration of bacteria in a bacterial harvest to adjust the concentration of bacteria in the bulk vaccine to the level demonstrated to be satisfactory as prescribed in §§ 620.31(d) and 620.33. The total number of bacteria and the number of live bacteria in a unit of opacity of a satisfactory bacterial harvest may vary from manufacturer to manufacturer due to the culture medium and procedures used for propagation of the bacteria. Accordingly, the proposed definition of opacity is not applicable to the concentration of bacteria in all satisfactory vaccines, and the comment is rejected.

5. One comment on proposed § 620.33 suggested that a mucin control be included as a requirement in the potency tests. When gastric mucin is added to a suspension of *Vibrio cholerae*, the virulence of the bacteria in mice is enhanced and greater uniformity in the response to the challenge is achieved. Therefore, to provide a uniform and highly virulent challenge to mice immunized with Cholera Vaccine, proposed § 620.33(c) (2) requires that the suspensions of bacteria used for the challenge and virulence titrations must be suspended in gastric mucin.

The Commissioner agrees that it is good testing procedure to include a mucin control in the potency testing to assure that the mucin is not toxic to the test animals, thereby invalidating the potency test. However, the toxicity of a particular concentration and lot of mucin may be determined before its use for potency testing. Should there be any change in the quality of the mucin during the life of the lot, the change will be evident in the test results of the standard vaccine. For this reason, the Commissioner believes that it is not necessary to require that a mucin control be included with every potency test. Accordingly, the comment is rejected.

6. Two comments on proposed § 620.33 (a) indicated that the second sentence could be misinterpreted to require that at least 4 groups of mice, consisting of 16 mice each, be used for each dilution of the vaccine in the potency test rather than one group of at least 16 mice for each dilution of the vaccine, as presently required by the Bureau of Biologics.

The Commissioner intended that one group of at least 16 mice be used for each dilution of the vaccine. Accordingly, § 620.33(a) is clarified in the final regulation by specifying that in the potency test, (1) at least 4 dilutions of each vaccine shall be tested, and (2) a group of at least 16 mice shall be used for each dilution of each vaccine.

7. The Commissioner advises that *V. cholerae*, Inaba serotype, strain V86, which is distributed by the World Health

Organization (WHO), is widely used throughout the world for the preparation of vaccine challenge cultures for use in the Cholera Vaccine potency test. On the basis of tests conducted by the Bureau of Biologics, the Commissioner concludes that the strains 35A3 and V86 are equivalent in the potency testing of Cholera Vaccine and therefore strain V86 should be permitted as an alternative to strain 35A3. Accordingly, § 620.33(c) (1) is amended in the final regulation to provide that *V. cholerae*, Inaba serotype, strain V86 may be used instead of Inaba serotype, strain 35A3, provided that the source of the challenge culture shall be identified and verified by the manufacturer as equal to that distributed by WHO.

8. The Commissioner finds that WHO recommends that the bacteria for each challenge shall be harvested from a 6-hour culture, instead of a 16- to 18-hour culture, as proposed in § 620.33(c) (2). A 16- to 18-hour challenge culture was proposed since this time interval is within the active growth phase of bacteria, such as cholera, and is convenient in test scheduling. However, collaborative studies in 1975 conducted by the Bureau of Biologics with the National Institute for Biological Standards and Control of Great Britain, using the WHO recommended method, indicate that there is no significant difference in the virulence of the challenge cultures harvested at 6 hours and those harvested at 16 to 18 hours. In addition, the potency test for Typhoid Vaccine (21 CFR 620.13) also prescribes the use of challenge cultures harvested at 5 to 6 hours. Therefore, to promote uniformity in conducting tests on biological products without being unnecessarily restrictive, § 620.33(c) (2) is amended in the final regulation to provide that the bacteria for each challenge be harvested from a 6- to 18-hour culture.

It has come to the attention of the Commissioner that the phrase "nutrient agar medium" in the same paragraph (§ 620.33(c) (2)) could be misinterpreted to refer to a specific agar medium rather than any suitable agar medium for growing the bacteria, as the Commissioner intended. Accordingly, the word "nutrient" is replaced with the word "suitable" in the final regulation. For consistency, the Commissioner is also amending § 620.13(c) (2) (21 CFR 620.13(c) (2)) by replacing the word "nutrient" with the word "suitable."

9. One comment on proposed § 620.33 (c) (2) suggested that the concentration of gelatin in the diluent used for suspension of the harvested bacteria be changed from 0.1 percent to 0.2 percent. The comment suggested the change to promote uniformity of diluent ingredients since a 0.2 percent gelatin concentration is prescribed for the potency test of other biological products, such as Diphtheria Toxin for the Schick Test (21 CFR 650.4(e)).

The Commissioner proposed the use of 0.1 percent gelatin as a minimum concentration necessary to stabilize the harvested bacteria. A 0.2 percent gelatin

concentration would also produce the intended effect as a stabilizer. Therefore, for uniformity, the required concentration of gelatin in the diluent prescribed in § 620.33(c)(2) is changed to permit the use of 0.1 percent to 0.2 percent gelatin.

10. One comment on proposed § 620.33(c)(3) suggested that for a valid potency test only 16 mice from each dilution group that received the vaccine need be inoculated with the challenge suspension, rather than each surviving mouse that received the vaccine, as proposed.

A valid potency test may be obtained by inoculating only 16 immunized mice from each dilution group with the challenge suspension. The Commissioner recognizes that it is a common practice in many laboratories to immunize more than 16 mice and then to randomly select 16 surviving mice from each group for challenge and the Commissioner has no objection to this practice. Accordingly, § 620.33(c)(3) is amended in the final regulation to require that at least 16 surviving mice randomly selected from each dilution group that received the vaccine shall be inoculated with the challenge suspension.

11. One comment on proposed § 620.33(e)(2) and (3) stated that lack of homogeneity and linearity of the dose response curves of the standard and test vaccines should not invalidate the potency test. The comment suggested (1) revision of § 620.33(e)(2) to provide that the dose response curves of the standard and test vaccines be the same shape as determined by an appropriate statistical method, rather than that the test for homogeneity shall be acceptable, as proposed, and (2) deletion of § 620.33(e)(3), which requires that the dose response curves of the standard and test vaccines be shown to be parallel by an appropriate statistical method.

The Commissioner finds that the most valid comparisons between the dose response curves of the standard and test materials are made using those portions of the curves that are homogeneous and linear by generally accepted biostatistical methods. The use of other portions of the dose response curves that are not homogeneous and linear makes calculation of potency of the test material relative to the standard unreliable.

The Commissioner had intended to require that the potency test is valid provided the log-dose response lines rather than the slopes of the dose response curves for the vaccine under test and the standard vaccine are shown to be parallel by an appropriate statistical method. The Commissioner concludes that equality of the slopes or parallelism of the log-dose response lines of the standard and test vaccines is also a requisite to any valid comparison of potency and cannot be deleted in the criteria for validity of the test for potency requirement, as suggested by the comment.

Accordingly, the comment is rejected. However, proposed § 620.33(e)(3) is amended to require that the log-dose re-

sponse lines for the vaccines under test and the standard vaccine shall be shown to be parallel by an appropriate statistical method. For consistency, § 620.33(e)(2) is also amended to require that the potency test is valid if the homogeneity of the dose response lines for both the vaccine under test and the standard vaccine is acceptable.

12. One comment on proposed § 620.33(e)(4) stated that only dilutions that result in a dose-graded response need be used in the calculations of the median effective dose (ED_{50}) values because in some cases the lowest dilution results in a response that is out of line with the other dilutions. The comment suggested revision of proposed § 620.33(e)(4) to permit the use of three consecutive, serial dilutions that are dose related and to bracket the endpoint in the calculation of the ED_{50} values.

The Commissioner recognizes the need to adjust the dilutions used in conducting the potency test so that the ED_{50} value is bracketed as prescribed in the requirement of § 620.33(b) and the dose response curves meet the test for homogeneity prescribed in § 620.33(e)(2). However, a statistical review of test results conducted by the Bureau of Biologics for a 5-year period shows that it is unnecessary to exclude any of the dilutions used, provided that the test vaccine meets the potency requirements of § 620.33(h) and the ED_{50} value is bracketed by the dilutions used as prescribed in § 620.33(b). In addition, the ED_{50} values that are calculated from the responses of all dilutions used are more representative of the true ED_{50} values of the standard and test vaccines. This information was made available at the office of the Hearing Clerk, Food and Drug Administration when the proposal was published. Accordingly, the comment is rejected, and no change is made in § 620.33(e)(4) of the final regulation.

13. One comment on proposed § 620.33(e)(6), which included submission of data, suggested that the limit of the colony-forming units (CFU) contained in the challenge suspension be increased from 5,000 to 10,000. The comment stated that the submitted data indicate that increasing the limit is necessary since the CFU's per mean lethal dose (LD_{50}) for ratios for both strains varied widely, and reached 9,000 CFU's per LD_{50} for the Inaba strain. The comment also noted that the wide variation in CFU per LD_{50} ratios does not appear to have a significant influence upon the potency ratio of the standard to the test vaccine or the ratio of the number of deaths to the number of the nonimmunized mice that received the challenge dose.

The Commissioner concludes that the data submitted with the comment support the suggested change. Accordingly, § 620.33(e)(6) is amended in the final regulation by increasing the limit of the colony-forming units contained in the challenge suspension from 5,000 to 10,000.

14. One comment on proposed § 620.33(e) asked whether the variance of the assays established from test results in 1970 and 1971, which were presented in

support of the proposal, is still applicable to tests performed at the Bureau of Biologics in recent years even though mice from different sources have been used.

The Commissioner advises that the Bureau of Biologics has found it necessary to screen mouse sources to select those sources that can supply suitable animals. However, unusual problems have not been encountered in meeting the variance limits specified in the proposed regulations.

15. It has come to the Commissioner's attention that the wording of proposed § 620.33(f) does not specify that repeat tests need be conducted only with the serotype that caused the vaccine to fail the potency requirements. Since this was the Commissioner's intent, § 620.33(f) is clarified in the final regulation accordingly.

16. One comment requested information on the derivation of the potency units referenced in proposed § 620.33(h) and in the preamble of the proposal.

The Commissioner advises that a potency of 8 units per milliliter was assigned to the U.S. Standard Cholera Vaccine to facilitate measurement of potency of manufactured vaccines. The significance of the number eight is its use as a constant numerical base to establish whether or not the manufactured vaccine is adequately potent for its intended use.

17. One comment on proposed § 620.34 expressed confusion concerning the time period within which the mice shall have free access to food and water. The comment suggested that for clarification, the phrase "no less than 2 hours before injection" be changed to "until 2 hours before injection."

The Commissioner intended that for at least 2 hours before injection and throughout the test period, the animals should have free access to food and water. For clarification, § 620.34 of the final regulation is amended accordingly.

18. One comment on proposed § 620.34 stated that the requirement that no more than 5 percent of the total number of mice used shall die during the test period, in practice, forces laboratories to use at least 20 mice to anticipate at least one death. The comment proposed that the requirement be increased to 10 percent so that only 10 mice need be used for the test, anticipating that one mouse may die from causes not related to the vaccine.

Based on data resulting from mouse toxicity tests performed by the Bureau of Biologics, the Commissioner finds that if the vaccine is not toxic, the mice are healthy, and the injections performed properly, none of the test mice should die during the 72-hour test period. Accordingly, the comment is rejected.

It has come to the Commissioner's attention that the phrase "other than those caused by the preservative or the native endotoxin in the vaccine" in proposed § 620.34 should be deleted from the last sentence. The levels of preservative and endotoxin in every lot of vaccine produced by the manufacturer should be the same. These levels are not sufficient to

kill mice. Consequently, the phrase is meaningless and is deleted from § 620.34 of the final regulation.

19. Four comments on proposed § 620.35 (e)(1) objected to the requirement to submit samples of final containers of Cholera Vaccine to the Bureau of Biologics for release. The comments suggested that rather than final containers, samples of bulk vaccine be required to be submitted to the Bureau of Biologics, which is consistent with the present practice. The comments pointed out that Cholera Vaccine is a unique product because it is used only by the military and travelers going to countries that require vaccination for entry. For this reason, the vaccine is stocked in bulk by the manufacturer and finished into final containers as needed. There are economic advantages to using this procedure since it is less expensive for the manufacturer, and ultimately for the consumer, to store bulk vaccine than it is to store final containers. In addition, bulk vaccine can be retested for extension of dating. Such retesting would not be practical if the vaccine was stored in a large number of final containers that would have to be tested individually for potency.

It is generally preferable that a product tested for release be in the form in which it is distributed in the marketplace. However, the Commissioner recognizes that Cholera Vaccine is a unique product, as described by the comments. For this reason and because there is no indication from past experience that release of Cholera Vaccine in bulk form has resulted in the distribution of Cholera Vaccine that is not safe, pure, potent, and effective, the Commissioner accepts the comments. The Commissioner advises, however, that the mixing of fresh vaccine with aged vaccine that has lost potency is not permitted. Any vaccine that has lost potency must be discarded. Accordingly, § 620.35(e)(1) is amended in the final regulation to require that a sample of no less than 40 milliliters be submitted to the Director, Bureau of Biologics. These samples may be in final container form or from the vaccine bulk lot.

20. Two comments on proposed § 620.35 (e)(2) objected to the requirement that raw data and results from each potency test be submitted to the Bureau of Biologics as a requisite for release of Cholera Vaccine. One comment interpreted the phrase "each potency test" to mean each valid potency test. The other comment requested a similar interpretation by the Bureau of Biologics.

The Commissioner considers it necessary to review the data from the Cholera Vaccine potency tests, whether valid or invalid. The Cholera Vaccine potency test is subject to a relatively large number of variables that may influence the validity of test results. To evaluate adequately the quality of test data and to confirm the manufacturer's claim of potency, raw data and results of each potency test performed, whether valid or invalid, must be reviewed by the Bureau of Biologics. Accordingly, the comments

are rejected, and no change is made in § 620.35(e)(2) in the final regulation.

Additional background data and information on which the Commissioner relies in promulgating this regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 2.120), the Commissioner is amending Parts 610 and 620 of Subchapter F of Title 21 of the Code of Federal Regulations as follows:

A. In Part 610:

1. By alphabetically adding two new items to the list of substances under the heading "Antigens" in § 610.20(a) as follows:

§ 610.20 Standard preparations.

(a) * * *

ANTIGENS

Cholera Vaccine, Inaba serotype.
Cholera Vaccine, Ogawa serotype.

2. By alphabetically adding a new item to the list of substances under "Antigens" in § 610.21 as follows:

§ 610.21 Limits of potency.

ANTIGENS

Cholera Vaccine, 8 units each of Inaba and Ogawa serotype antigens per milliliter.

B. In Part 620:

1. By amending § 620.13(c)(2) by replacing the term "nutrient" with the term "suitable"; the first sentence of the paragraph is revised to read as follows:

§ 620.13 Potency test.

(c) * * *

(2) The challenge and virulence titration doses shall be prepared as follows: The bacteria shall be harvested from a 5- to 6-hour culture grown at $36 \pm 1^\circ \text{C}$ on a suitable agar medium which shall have been seeded from a 16- to 20-hour culture grown at $36 \pm 1^\circ \text{C}$ on a suitable agar medium, and the harvested bacteria then shall be uniformly suspended in saline. * * *

2. By adding a new Subpart D consisting of seven sections, as follows:

Subpart D—Cholera Vaccine

Sec.	Cholera Vaccine.
620.30	Production.
620.31	U.S. Standard preparations.
620.32	Potency tests.
620.33	Mouse toxicity test.
620.34	General requirements.
620.35	Equivalent methods.

§ 620.30 Cholera Vaccine.

The proper name of this product shall be Cholera Vaccine, which shall consist

of an aqueous preparation of equal parts of Ogawa and Inaba serotypes of killed *Vibrio cholerae* bacteria.

§ 620.31 Production.

(a) *Strains of bacteria.* (1) A strain of Ogawa and a strain of Inaba serotypes of *V. cholerae* shall be used in the manufacture of the vaccine. Each serotype strain shall have been shown in controlled field studies to yield a vaccine no less potent than vaccines prepared from Ogawa strain 41 and Inaba strain 35A3 obtained from the Bureau of Biologics.

(2) Antigenic integrity of the strains shall be verified by (i) the agglutination of living bacteria of each serotype by cholera O Group I antiserum; (ii) the agglutination of the Ogawa strain in monospecific Ogawa antiserum and of the Inaba strain in monospecific Inaba antiserum; and (iii) the absence of spontaneous agglutination of living bacteria of either strain in 0.85 percent sodium chloride solution during incubation for at least 5 hours at 37°C .

(b) *Propagation of bacteria.* The culture medium for the propagation strains shall not contain ingredients known to be capable of producing allergenic effects in human subjects. The harvested bacteria shall be free of extraneous bacteria, fungi, and yeasts as demonstrated by microscopic examination and cultural methods. Bacteria of the two serotypes shall be grown separately.

(c) *Bacterial content.* (1) The number of bacteria in each separate bacterial harvest shall be determined by use of the U.S. Opacity Standard not later than 2 hours after harvest and before treatment with a preservative or other agent capable of altering opacity of the bacterial suspension.

(2) The vaccine shall contain equal numbers of bacteria of the Ogawa and Inaba serotypes, and the total number shall not exceed 8×10^9 bacteria per milliliter.

(d) *Nitrogen content.* The total nitrogen content of the vaccine shall not exceed 0.3 milligram per milliliter for bacteria grown on solid medium or 1.0 milligram per milliliter if grown in liquid medium. In no instance shall the vaccine contain more than 0.07 milligram per milliliter of nitrogen precipitable by the addition of an equal volume of 10 percent trichloroacetic acid.

(e) *Preservative.* The vaccine shall contain a preservative.

§ 620.32 U.S. Standard preparations.

The following U.S. Standard preparations shall be obtained from the Bureau of Biologics, Food and Drug Administration, for use as prescribed in this subpart:

(a) *Vaccine standard.* The U.S. Standard Cholera Vaccine, Ogawa serotype, and U.S. Standard Cholera Vaccine, Inaba serotype, shall be reconstituted as directed for determining the potency of Cholera Vaccine.

(b) *Opacity standard.* The U.S. Opacity Standard for use in estimating the bacterial content of the vaccine and of the challenge culture.

(c) *Seed culture.* Seed cultures of *V. cholerae*, Inaba serotype, strain 35A3 and Ogawa serotype, strain 41, for preparation of vaccine challenge cultures for use in the vaccine potency test.

§ 620.33 Potency tests.

Each lot of vaccine shall be subjected to two potency tests. One test shall determine the potency of the vaccine in comparison with the U.S. Standard Cholera Vaccine, Ogawa serotype; and the other test shall determine the potency of the vaccine in comparison with the U.S. Standard Cholera Vaccine, Inaba serotype. At least four dilutions of each vaccine shall be tested. Each test shall be performed as follows:

(a) *Mice.* Healthy mice shall be used, all from a single strain and of the same sex, or an equal number of each sex in each group, with individual weights between 10 and 14 grams. A group of at least 16 mice shall be used for each dilution of each vaccine. In addition, there shall be at least 4 groups consisting of no less than 10 mice each for each potency test as a control for virulence titration of the challenge suspension.

(b) *Injections of vaccine.* Serial dilutions, no greater than fivefold, of the vaccine to be tested and of the appropriate serotype standard vaccine shall be made in 0.85 percent sodium chloride solution. The mean effective dose (ED_{50}) value shall be bracketed by the dilutions used. Each mouse in each dilution group shall receive intraperitoneally 0.5 milliliter of the appropriate vaccine dilution. At least 87.5 percent of the mice in each dilution group shall survive, and all surviving mice shall appear healthy at the time of challenge.

(c) *The challenge.* The challenge shall be administered 12 to 16 days after injection of the vaccine.

(1) The strains of *V. cholerae* for challenge shall be Ogawa 41 and Inaba 35A3, except that *V. cholerae*, Inaba serotype, strain V86 may be used instead of Inaba serotype, strain 35A3, for preparation of vaccine challenge culture: *Provided*, That the source of the challenge culture shall be identified and verified by the manufacturer as equal to that distributed by the World Health Organization. For each test, the challenge culture shall be taken from a batch of cultures maintained by a method such as freeze-drying that retains constancy of virulence.

(2) The challenge and virulence titration doses shall be prepared as follows: The bacteria for each challenge shall be harvested from a 6- to 18-hour culture grown at $36 \pm 1^\circ \text{C}$. on a suitable agar medium adjusted to pH 7.4. The harvested bacteria shall be uniformly suspended in a diluent consisting of M/15 phosphate buffered saline adjusted to pH 7.4 and shall contain 0.1 to 0.2 percent gelatin. The suspension shall be free from agar particles and clumps of bacteria. The suspension shall be adjusted to an opacity of 10 units, and diluted in tenfold increments using the same diluent. The suspensions for the challenge and virulence titrations shall be sus-

pended in a 5 to 10 percent sterile gastric mucin preparation adjusted to pH 7.4. The challenge suspension shall be prepared from whichever bacterial dilution provides the required mean lethal doses (LD_{50}) for a 0.5 milliliter challenge dose. The virulence titration suspensions shall consist of the challenge suspension and at least three dilutions of the challenge suspension calculated to bracket the LD_{50} value.

(3) At least 16 surviving mice, randomly selected from each dilution group that received vaccine, shall be inoculated intraperitoneally with a 0.5-milliliter dose of the challenge suspension. Mice in each of the four groups of control mice used for the virulence titration of the challenge suspension shall be inoculated intraperitoneally with a 0.5-milliliter dose of the challenge suspension and its respective dilutions. The challenge dose control mice shall be inoculated last. The interval between removal of the bacteria from the culture medium and the inoculation of the last mouse shall not exceed $2\frac{1}{2}$ hours.

(d) *Recording the results.* The mice shall be observed daily for 2 days following challenge. A daily record shall be maintained of the number of mice that die. A record of the number of mice that survive shall be made at the end of the observation period.

(e) *Validity of the test.* The test is valid provided: (1) The ED_{50} value of the vaccine under test and the standard vaccine is between the largest and smallest doses inoculated into the mice;

(2) The homogeneity of the dose response lines for both the vaccine under test and the standard vaccine is acceptable;

(3) The log-dose response lines for the vaccine under test and the standard vaccine are shown to be parallel by an appropriate statistical method;

(4) The results of all dilutions shall be used to calculate the ED_{50} value of both the standard and test vaccine by a parallel line bioassay method of a method statistically equivalent;

(5) The challenge dose contains between 100 and 10,000 LD_{50} doses; and

(6) The LD_{50} value of the challenge suspension contains no more than 10,000 colony-forming units determined by plate count.

(f) *Repeat tests.* Repeat tests need be performed only on the serotype which failed to meet the potency requirements prescribed in paragraph (h) of this section. The results of each test on each serotype meeting the criteria in paragraph (e) of this section shall be combined by means of a geometric mean. The determination that the vaccine meets the potency requirements shall be made from the results of not more than three valid tests on each serotype.

(g) *Estimate of the potency.* The ED_{50} value of each vaccine shall be calculated. The protective unit value of each serotype per milliliter of the vaccine under test shall be calculated in terms of the unit value of the corresponding standard vaccine.

(h) *Potency requirements.* The vaccine shall have a potency of not less than 8 units per serotype per milliliter. This requirement shall be met only if the potency for a single test is not less than 4.4 units per serotype per milliliter, or for two tests not less than 5.3 units, or for three tests not less than 5.7 units.

§ 620.34 Mouse toxicity test.

The final vaccine shall be demonstrated to be free from toxicity by the following test: A group of no less than 10 and no more than 40 mice, each mouse weighing 14 to 16 grams, shall have free access to food and water at least 2 hours before injection and throughout the test period. The group weight of the mice shall be determined immediately before injection. Each mouse shall be injected intraperitoneally with a test dose of 0.5 milliliter of undiluted vaccine. The group weight of the mice shall be determined again at the end of 72 hours. The 72-hour average weight per mouse shall be no less than the average weight per mouse immediately preceding the injection. No more than 5 percent of the total number of mice used may die during the test period; however, neither death nor significant toxic signs attributable to the vaccine shall result.

§ 620.35 General requirements.

(a) *Freezing prohibition.* Cholera Vaccine shall not be frozen at any time.

(b) *Dose.* These standards are based on a total immunizing dose of two injections of 0.5 milliliter and 1.0 milliliter, respectively, given at intervals specified in the manufacturer's labeling.

(c) *Date of manufacture.* The date of manufacture shall be the date of initiation of the last valid potency test for the Ogawa serotype or the Inaba serotype, whichever date is earlier.

(d) *Labeling.* In addition to the applicable labeling provisions of this chapter, the package label shall bear the following: (1) A statement that the vaccine contains 8 units of each serotype antigen per milliliter.

(2) The statement, "DO NOT FREEZE".

(3) The statement, "SHAKE WELL".

(e) *Samples; protocols; official release.* For each lot of vaccine, the following material shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20014. (1) A sample consisting of no less than 40 milliliters of the product. The sample may be in the final container or from the vaccine bulk lot.

(2) A protocol which consists of a summary of the history of manufacture of each lot including all results of each test for which test results are requested by the Director, Bureau of Biologics, Food and Drug Administration. The raw data and results from each potency test performed shall be included.

(3) The vaccine shall not be issued by the manufacturer until notification of official release is received from the Director, Bureau of Biologics.

§ 620.36 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Cholera Vaccine may be permitted whenever the manufacturer presents evidence which demonstrates that the modification will provide assurances of the safety, purity, potency and effectiveness of the vaccine that are equal to, or greater than, the assurances provided by such standards, and the Commissioner of Food and Drugs so finds and makes such findings a matter of official record.

Under the Administrative Procedure Act (5 U.S.C. 533 (b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of §§ 620.13(c) (2) and certain amendments to 620.33(c) (1) and (2), and 620.34 discussed in the preamble because they do not impose an additional duty or burden on any person but rather relieve unnecessary restrictions and permit alternative procedures.

Effective date. This regulation shall be effective on June 2, 1976.

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

Dated: April 26, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc. 76-12732 Filed 4-30-76; 8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Concrete Bridge Decks

*** Purpose.** The purpose of this document is to publish policies and procedures with respect to the construction or reconstruction of concrete bridge decks.

Heretofore, the policies and procedures were contained in Instructional Memorandums 21-6-72 and 40-6-72. These Instructional Memorandums have recently been superseded by a new addition to the Federal-Aid Highway Program Manual, at Volume 6, Chapter 7, Section 2, Subsection 7, entitled "Concrete Bridge Decks." Those portions of the Manual addition which impose requirements on recipients in order to qualify for Federal aid are hereby published.

The matters affected relate to benefits or contracts within the purview of 5 U.S.C. 553(a) (2), thus general notice of proposed rulemaking is not required.

Effective Date: April 5, 1976.

Issued on April 22, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart F—Concrete Bridge Decks

- Sec.
- 650.601 Purpose.
- 650.603 Definitions.
- 650.605 Construction.
- 650.607 Reconstruction.
- 650.609 Maintenance.
- 650.611 Additional stage of construction.
- 650.613 Protective system.
- Appendix A Reconstruction procedures.

AUTHORITY: 23 U.S.C. 109(a) and 315; 49 CFR 1.48(b)

Subpart F—Concrete Bridge Decks

§ 650.601 Purpose.

The purpose of this subpart is to prescribe policies and procedures for the construction, reconstruction, and additional stages of concrete bridge deck construction, with special emphasis on concrete bridge deck protective systems, within the existing controls on the expenditure of Federal-aid funds.

§ 650.603 Definitions.

(a) **Additional Stage of Construction**, as related to bridge decks, means a deferred or an additional stage of an initial (or new) construction project, or additional work not contemplated during the initial construction phase but accomplished as part of a subsequent or reconstruction project.

(b) **Construction** means the initial (or new) construction of any specific bridge deck.

(c) **Maintenance** means routine or incidental work necessary to keep a bridge deck functioning in a safe and efficient manner.

(d) **Protective System** means a system used to protect bridge decks from early deterioration due to reinforcing steel corrosion induced by highway deicing chemicals.

(e) **Reconstruction** means the restoration of the structural integrity of a bridge deck which may include partial restoration or complete removal and replacement of the existing deteriorated bridge deck. Partial restoration of an existing deck includes the partial removal and replacement of all deteriorated and/or inadequate components.

§ 650.605 Construction.

In view of bridge deck deterioration occurring in the early life of numerous bridges built in recent years, the following practices shall be implemented for all bridge decks to be constructed with Federal-aid funds:

(a) **Concrete Requirements.** (1) **Concrete Cover**—Design, specifications, construction controls and tolerances shall be established so that adequate concrete cover over the top deck rebars will be provided to assure durable, long-lasting bridge decks.

(2) **Water-Cement Ratio**—States shall adopt the lowest feasible maximum water-cement ratio for all concrete utilized in construction of bridge decks. Adequate mix design procedures shall be established to provide a method for determining water utilized in the actual construction and field procedures shall be employed to provide reasonable assur-

ance that the specified maximum water-cement ratio is not exceeded.

(3) **Quality Concrete**—States shall adopt designs, specifications and procedures equal to or better than those specified in Standard Specifications for Highway Bridges, Eleventh Edition, AASHTO 1973, as amended, section 2.4.6, "Proportioning of Concrete," Class A(AE), Bridge Deck Concrete.

(4) **Consolidation**—With low water-cement ratio dense concretes, specifications shall include construction control procedures that insure consolidation of the in-place concrete.

(b) **Protective System.** Where bridge decks are likely to be subjected to potentially damaging applications of deicing salts, a protective system is required in accordance with the provisions of § 650.613.

§ 650.607 Reconstruction.

In an effort to alleviate bridge deck deterioration and provide bridge decks with a reasonable service life, the following policies are established to assure that all Federal-aid bridge deck reconstruction will be as nearly permanent as judicious economics and current technology will permit.

(a) **Eligible Work**—Reconstruction work and procedures, necessary to assure acceptable performance of existing bridge decks, are set forth below and are eligible for Federal-aid participation from the appropriate funds:

(1) **Reconstruction Work**—Reconstruction shall include all concrete deck restoration work required to assure satisfactory performance of the concrete deck and of the adopted protective system if required. This may include items such as the removal of existing overlays, removal and replacement of all deteriorated reinforcing steel or the complete removal and replacement of an entire bridge deck when necessary. The installation of a protective system, when required, shall be considered an additional stage of construction;

(i) Reconstruction may also include removal and replacement of deteriorated concrete curbs, sidewalks, parapets, as well as rails, deck joints, bearings, or similar incidental items which are considered essential for proper functional restoration of the structure.

(ii) Consistent with 23 CFR 655, Subpart E, reconstruction may include safety improvements to be undertaken in conjunction with the above described work, where such improvements eliminate an established hazardous condition. Such safety improvements may include widening, elimination of hazardous walks and substandard railing systems, removal of hazardous fixed objects or installations of energy absorbing bar-

¹ This publication establishes standards and specifications for Federal-Aid projects pursuant to 23 CFR 625.3(a) (6).

² American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D.C. 20045 (now AASHTO).

³ AASHTO Interim Specifications Bridges, 1974.

rier systems, and any other features that are considered essential under current safety standards.

(2) **Reconstruction Procedures**—The following reconstruction procedures are acceptable for use on Federal-aid projects:

(i) **Acceptable Permanent Reconstruction.** (A) Permanent restoration requires a structurally sound bridge deck and the removal of all delaminated concrete, highly chloride contaminated concrete and also deteriorated concrete and rebar in areas of active corrosion. With proper restoration procedures and the installation of an approved protective system, this type of reconstruction is considered permanent and nonexperimental.

(B) Permanent restoration, however, will require a complete deck survey as to delaminations, corrosion potentials and chloride contents except where visual and delamination surveys indicate complete deck replacement as the obvious economical alternative.

(ii) **Experimental Cost Effective Reconstruction.** (A) This procedure is considered experimental, may be undertaken on concrete bridge decks found to be structurally sound, and requires restoration procedures sufficient to assure an estimated extended life for the deck of 10 to 15 years. This alternative allows salt contaminated concrete to be left in place, but the system of restoration must be considered effective based on previous successful experimental installations.

(B) Experimental considerations require that the first three installations and 10 percent of the remaining installations shall be identified as test structures and be completely surveyed prior to restoration.

(C) Immediately after restoration these test structures shall be resurveyed for corrosion potentials and, if membranes are used, resistivity readings shall be recorded. Periodically thereafter on all test structures, corrosion potential levels, resistivity readings where appropriate, and the presence of delaminations, where practical, shall be determined.

(b) **Miscellaneous.** (1) Acceptable restoration and protective systems are detailed in Appendix A.

(2) Reconstruction must be consistent with the applicable design and construction controls specified in § 650.605.

§ 650.609 Maintenance.

The following policies are applicable to maintenance of bridge decks as related to Federal-aid funding:

(a) Maintenance work is considered an obligation of the State and is not eligible for Federal-aid funding;

(b) Spot patching of a bridge deck is maintenance unless it is done as work incidental to reconstruction in accordance with § 650.607.

(c) The resurfacing of a bridge deck is maintenance when such work only restores the general condition of the riding surface and does not significantly increase the structural and/or durability characteristics of the original deck.

§ 650.611 Additional stage of construction.

The following policies have been established relative to additional stages of construction on existing or reconstructed bridge decks:

(a) **Eligible Work**—Where not used in the original construction, a moisture barrier, waterproofing membrane, or other protective system, including a water tight deck joint system, is considered an additional stage of construction on an existing bridge where deicing chemicals are likely to be used. An asphaltic concrete protective wearing course, if required to maintain the integrity of a membrane, may likewise be considered an additional stage of construction.

(b) **Federal-Aid Participation**—A protective system, even though not included on the original construction plans, is eligible as an additional stage of construction for Federal-aid participation from the appropriate funds.

(c) **Procedures**—All additional stage construction procedures must be consistent with applicable design and construction controls herein.

§ 650.613 Protective system.

In view of the recognized need for protective systems on those bridges subjected to deicing chemicals, the following policies have been established:

(a) Contract plans and specifications for construction and/or reconstruction of bridge decks that are likely to be subjected to potentially damaging applications of deicing salts shall provide for a protective system that will effectively prevent chloride induced deterioration;

(b) Existing protective systems that prove effective based on field experience and/or laboratory research programs have been and will continue to be reported on in the National Experimental and Evaluation Program as conducted by FHWA Headquarters Office.

(c) Proprietary products, when used as a bridge deck protective system, must be used in accordance with Federal regulations on the use of proprietary products.

Acceptable reconstruction procedures for Federal-aid participation¹

Category	Procedures	Acceptable permanent reconstruction	Experimental cost-effective reconstruction (estimated extended life 10 to 15 yr)
Structurally inadequate Extensive deck deterioration.	Required restoration work.	Complete deck replacement (unless restorable). Complete deck replacement.	Removal of all deteriorated concrete. Follow the repair procedure approved for the protective system selected.
	Testing.	Steps 1 through 5 as necessary (probably only steps 1 and 2).	Steps 1 and 2 only, except all steps on the first 3 plus 10 pct of the remaining decks.
	Suggested protective systems.	Epoxy coated rebar. Two course-lowa system or latex modified concrete. Membrane W/a/c overlay. Cathodic protection.	Two course-lowa system or latex modified concrete. Membrane W/a/c overlay. Cathodic protection.
Moderate deck deterioration.		Same as for category 1 above.	Same as for category 1 above.
		or Same as for category 3 below as determined by the State.	
Light deck deterioration.	Required restoration work	Removal and replacement of all areas of deterioration and chloride contaminated concrete as determined by corrosion potentials and/or chloride sampling (less than 5 pct of deck area).	Same as for category 1 above. ²
	Testing.	Steps 1 through 5.	Steps 1 and 2 only, except all steps on the first 3 plus 10 pct of the remaining decks.
	Suggested protective systems.	Two course-lowa system or latex modified concrete. Membrane W/a/c overlay. Cathodic protection.	Two course-lowa system or latex modified concrete. Membrane W/a/c overlay. Cathodic protection.

¹ Testing steps: 1 Visual, 2 Delamination, 3 Electrical potential, 4 Rebar Depth, 5 Chloride Content.

² For this category of condition permanent restoration is strongly recommended.

[FR Doc.76-12556 Filed 4-30-76; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION [CGD 75-195]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Tacoma Harbor, Tacoma, Washington

This amendment changes the signal to request openings of the Blair Waterway (formerly Port Industrial Waterway) highway drawbridge at East 11th Street, Tacoma, Washington, from one long and one short blast to two long blasts. This amendment was circulated as a public notice dated November 21, 1975, by the Commander, Thirteenth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 75-195) on November 21, 1975, (40 F.R. 54260). Four responses were received and all had no objection to the proposed change in signals. However, the Tacoma Fire Department objected to the portion of the proposal which provided for 15 minutes notice during the evening and weekends for the opening of the draws at East 11th Street across Blair Waterway and Hylebos Waterway. This objection was based on possible delay in fireboats reaching a waterfront fire. The Washington Highway Department agreed to withdraw this portion of the proposal. The proposed signal for the East 11th Street bridge across Blair Waterway was one long and two short blasts. Tugboats use this signal

ERIAL REGISTER as a notice of proposed rule making (CGD 75-195) on November 21, 1975, (40 F.R. 54260). Four responses were received and all had no objection to the proposed change in signals. However, the Tacoma Fire Department objected to the portion of the proposal which provided for 15 minutes notice during the evening and weekends for the opening of the draws at East 11th Street across Blair Waterway and Hylebos Waterway. This objection was based on possible delay in fireboats reaching a waterfront fire. The Washington Highway Department agreed to withdraw this portion of the proposal. The proposed signal for the East 11th Street bridge across Blair Waterway was one long and two short blasts. Tugboats use this signal

during fog. To eliminate possible confusion, two long blasts is the signal to be used at this bridge.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by amending § 117.785 to read as follows:

§ 117.785 Tacoma Harbor, Tacoma, Wash.; bridges.

(e) (1) (i) * * *

(D) Blair Waterway; State of Washington highway bridge at East 11th Street: Two long blasts.

(f) * * *

(3) Blair Waterway, State of Washington highway bridge at East 11th Street and Hylebos Waterway, State of Washington highway bridge at East 11th Street.

(i) The draw need not open from 6:30 a.m. to 8:30 a.m., and from 3:30 p.m. to 5:30 p.m., Monday through Friday, except federal holidays, for vessels of less than 1,000 gross tons, unless—

(A) The vessel has a vessel of 1,000 gross tons or over in tow; or

(B) The vessel is proceeding to pick up a vessel of 1,000 gross tons or over for towing.

(ii) The draw shall open as soon as possible, in an emergency situation, after notice is given to the City of Tacoma Department of Public Works.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 155 (g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1 (c) (4))

Effective date. This revision shall become effective on June 7, 1976.

Dated: April 27, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 76-12796 Filed 4-30-76; 8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER VII—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation

The Administrator of Veterans' Affairs amends Part 3 of Title 38, Code of Federal Regulations, to implement provisions of Pub. L. 94-169 (89 Stat. 1013).

Pub. L. 94-169, enacted December 23, 1975, increased pension and parents' dependency and indemnity compensation rates and raised the maximum annual income limitations effective January 1, 1976. The act also made numerous technical changes in Title 38, United States Code, to eliminate references to specific gender. Section 101 of Title 38, United States Code, was amended to incorporate definitions of "spouse" and "surviving spouse." These latter changes remove implications that benefits under Title 38, United States Code, may not be avail-

able equally to male and female veterans and their spouses. Amendments to §§ 3.3(d), 3.50, 3.52, 3.53 and 3.54 of Title 38, Code of Federal Regulations, reflect the technical changes relating to gender and the statutory definition of spouse and surviving spouse. Amendments to §§ 3.3(b) and 3.16 relating to service pension for veterans delete provisions pertaining to Indian Wars since the last known Indian War veteran died June 18, 1973. An amendment to § 3.3(c) deletes a reference to effective date which no longer has significance.

These amendments to the regulations do not effect any substantive changes in entitlement or benefits but are made to conform the regulatory language with the language of the basic statutory provisions and to delete obsolete regulatory provisions. Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments are editorial in nature.

1. In § 3.3, paragraphs (b), (c) (1) and (3) and (d) (1) and (2) (introduction) are revised to read as follows:

§ 3.3 Pension.

(b) *Service pension; Spanish-American War.* Basic entitlement exists if the veteran: (1) Had 70 (or 90) days or more active service during the Spanish-American War; or

(2) Was discharged or released from such service for a disability service-connected without benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 512)

(c) *Disability pension; Mexican border period, and later war periods.* Basic entitlement exists if the veteran: (1) Served 90 days or more in either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, or served an aggregate of 90 days or more in separate periods of service during the same or during different war periods, including service during the Spanish-American War; or

(3) Is permanently and totally disabled from non-service-connected disability not due to his (or her) own willful misconduct or vicious habits, or by reason of having attained the age of 65 years. (38 U.S.C. 502, 521)

(d) *Death pension—(1) Indian war.* Basic entitlement exists for the surviving spouse or child of a deceased veteran of an Indian war if the veteran's service meets the requirements of 38 U.S.C. 511. (38 U.S.C. 534, 535)

(2) *Spanish-American War.* Basic entitlement exists for the surviving spouse or child of a deceased veteran if the veteran:

2. Section 3.16 is revised as follows:

§ 3.16 Service pension.

In computing the 70 or 90 days required under § 3.3(b) active service which began before or extended beyond the war period will be included if such service was continuous. Broken periods of service during a war period may be added together to meet the requirement for length of service.

3. Section 3.50 is revised to read as follows:

§ 3.50 Wife, widow or spouse.

(a) *Wife.* "Wife" means a persons whose marriage to the veteran meets the requirements of § 3.1(j).

(b) *Widow.* Except as provided in § 3.52, "widow" means a person whose marriage to the veteran meets the requirements of § 3.1(j) and who was the lawful spouse of the veteran at the time of the veteran's death and

(1) who lived with the veteran continuously from the date of marriage to the date of the veteran's death except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse, and

(2) who has not remarried or (in cases not involving remarriage) has not since the death of the veteran and after September 19, 1962, lived with another person of the opposite sex and held herself (himself) out openly to the public to be the spouse of such other person. On and after January 1, 1971, the requirement of this paragraph (b) (1) is that she (he) be unmarried and not living with another person of the opposite sex and holding herself (himself) out openly to the public as the spouse of such other person. (38 U.S.C. 101(3); Pub. L. 94-169; 89 Stat. 1013)

(c) *Spouse and surviving spouse.* "Spouse" means a person of the opposite sex who is a wife or husband and the term "surviving spouse" means a person of the opposite sex who is a widow or widower provided the marriage meets the requirements of § 3.1(j) or, as to accrued benefits, § 3.52. (38 U.S.C. 101 (31); Pub. L. 94-169; 89 Stat. 1013)

4. In § 3.52, paragraphs (c) and (d) are revised to read as follows:

§ 3.52 Marriages deemed valid.

Where an attempted marriage of a claimant to the veteran was invalid by reason of a legal impediment, the marriage will nevertheless be deemed valid if:

(c) The claimant cohabited with the veteran continuously from the date of marriage to the date of his or her death as outlined in § 3.53, and

(d) No claim has been filed by a legal surviving spouse who has been found entitled to gratuitous death benefits other than accrued monthly benefits covering a period prior to the veteran's death. (38 U.S.C. 103(a))

5. Section 3.53 is revised to read as follows:

§ 3.53 Continuous cohabitation.

(a) *General.* The requirement that there must be continuous cohabitation from the date of marriage to the date of death of the veteran will be considered as having been met when the evidence shows there was no separation due to the fault of the surviving spouse. Temporary separations which ordinarily occur, including those caused for the time being through fault of either party, will not break the continuity of the cohabitation.

(b) *Findings of fact.* The statement of the surviving spouse as to the reason for the separation will be accepted in the absence of contradictory information. If the evidence establishes that the separation was by mutual consent and that the parties lived apart for purposes of convenience, health, business, or any other reason which did not show an intent on the part of the surviving spouse to desert the veteran, the continuity of the cohabitation will not be considered as having been broken. State laws will not control in determining questions of desertion; however, due weight will be given to findings of fact in court decisions made during the life of the veteran on issues subsequently involved in the application of this section.

6. In § 3.54, the introductory portion preceding paragraph (a), and paragraph (a) (1) are revised to read as follows:

§ 3.54 Marriage dates.

A surviving spouse may qualify for pension, compensation, or dependency and indemnity compensation if the marriage to the veteran occurred before or during his or her service or, if married to him or her after his or her separation from service, before the applicable date stated in his section.

(a) *Pension.* Death pension may be paid to a surviving spouse who was married to the veteran:

(1) One year or more prior to the veteran's death, or

Effective date. These VA Regulations are effective April 26, 1976.

Approved: April 26, 1976.

By direction of the Administrator:

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.76-12780 Filed 4-30-76; 8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Subparagraph (3) of § 177.4(c), Special Allowances, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969"

(Public Law 91-95) is amended to provide for the payment of such an allowance for the period January 1, 1976, through March 31, 1976, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both impracticable and contrary to the public interest.

Effective Date. Pursuant to Section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

Section 177.4(c) (3) is amended as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances and special allowance.

(c) Special allowances.

(3) Special allowances are authorized to be paid as follows:

(xxvii) For the period January 1, 1976, through March 31, 1976, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of 1¼ percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

Dated: April 14, 1976.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

Approved: April 28, 1976.

MARJORIE LYNCH,
Acting Secretary of Health,
Education, and Welfare

[FR Doc.76-12911 Filed 4-30-76; 8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Preservation of Records

On October 15, 1974, the Atomic Energy Commission published in the FEDERAL REGISTER (39 FR 36871) proposed amendments of its regulations in Parts 20, 30, 31, 32, 34, 40, 50, 55, 70, 115, and 150 which would prescribe time periods for applicant and licensee retention of cer-

tain records, and provide that if a retention period is not otherwise provided, such records shall be maintained by the licensee or applicant until the Commission authorizes their disposition. Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments by November 29, 1974.

Subsequently, in accordance with the Energy Reorganization Act of 1974, Pub. L. 93-438, the Nuclear Regulatory Commission was established on January 19, 1975 and assumed the licensing and related regulatory functions of the former Atomic Energy Commission.

After consideration of the comments on the proposed rule and other factors involved, the Nuclear Regulatory Commission has adopted the proposed amendments, with certain modifications, in the form set forth below.

A majority of the comments suggested deletion or modification of the proposed amendments of sections VII and XVII of Appendix B of Part 50 which would have required that quality assurance records be "maintained for the lifetime of the facility". The proposed amendments of sections VII and XVII of Appendix B are not being adopted at this time. Licensees will continue to be required to retain quality assurance records for the periods specified in the technical specifications of their license or in other appropriate regulatory provisions.

A commenter suggested that the amendments be revised to include references to other documents in addition to regulatory provisions, license conditions and technical specifications and to specify which document would be controlling in the event the documents provide for different retention periods for the same records. The amendments set forth below provide that the regulations would be controlling in all cases unless the Commission has granted a specific exemption from the record retention requirement specified in the regulations under the applicable regulatory provision for granting such exemptions.

The proposed amendment of § 50.59 (b) would have required that records of changes in the facility and in procedures, and records of tests and experiments, be maintained for the lifetime of the facility. One commenter suggested that § 50.59(b) be amended to require that records of changes in the facility and records of tests and experiments be maintained for at least the duration of the license and the records of changes in procedures be maintained for a period of two years from the date of change. A second commenter objected to including "tests and experiments" in this category of preservation for the lifetime of the facility since this provision would be more restrictive than ANSI Standard N 45.2.9-1974 and would not be consistent with Technical Specifications for some licenses. The proposed amendment of § 50.59(b) has been modified to (1) require that records of changes in the facility be maintained until the date of termination of the license, and (2) require that records of changes in proce-

dures and records of tests and experiments be maintained for a period of five years.

It was suggested also that the Commission review the need for maintenance of specific categories of records and the specific maintenance periods for these records, revise the proposed amendments, and publish the revision as proposed amendments for comments. In view of the number of comments received in response to the proposed rule, it is the Commission's view that issuance of a revised proposed rule would not develop additional substantive comments. Further, the recordkeeping requirements in the regulations have been the subject of rule making actions prior to their adoption and the rule which is the subject of this notice does not change or add to the records requirements except with respect to the retention periods.

It was recommended also that after adoption of the rule the Commission should assure that records maintenance requirements of all Agreement States are, or will be within a relatively short time after adoption of the rule, identical to those of the Commission. This recommendation has not been adopted since compatibility of the Commission—Agreement State programs for the regulation of materials covered by the agreements does not require that the pertinent regulations be identical.

Paragraph 40.61(e)(1) has been revised to provide that if source material is combined or mixed with other licensed material and subsequently treated in a manner which makes direct correlation of a receipt record with a transfer, export, or disposition record impracticable, evaluative techniques such as first-in-first-out may be used for purposes of the records retention requirements of § 40.61(c).

Paragraph 70.51(b)(3) has been amended to require that records of receipt, acquisition, inventory, or import of special nuclear material be maintained for five years following transfer or export of such material, and to require that records of inventory maintained to demonstrate compliance with Paragraph 70.58(h) shall be maintained for six months. Paragraph 70.51(b)(4) has been changed to require that records of export of special nuclear material be retained for five years after the export is made. Paragraph 70.51(b)(5) has been amended to require that records of transfers of special nuclear material between material balance areas required by § 70.51(e)(1)(v) be maintained for five years.

Language has been included in the rule set forth below to clarify that the required records may be either the original or a reproduced copy or microform provided that the reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of reproducing a clear and legible copy after storage for the period specified by Commission regulations.

It was recommended that the proposed rule be revised to delete all requirements

to maintain records indefinitely and to replace such provisions with a requirement to furnish a copy of the record to the Commission upon termination of the license or permit authorizing the activity. The suggestion that copies of records be furnished to the Commission has not been adopted since it would not be possible as a practical matter for the Commission to accept and retain all such records generated by licensees. The word "indefinitely" has been deleted in the pertinent language. Thus, where a specific retention period is not provided, the amendments provide that the records shall be maintained by the licensee or applicant until the Commission authorizes their disposition.

The rule set forth below requires that records of tests showing compliance with the requirements of § 31.5(c)(2) be maintained for one year after the next required test is performed or until the sealed source is transferred or disposed of. Records showing compliance with the requirements of § 31.5(c)(3) must be retained for a period of two years after the date of the recorded event or until the device is transferred or disposed of. Paragraph 34.25(c) requires that records of leak tests of radiographic sources be maintained for 6 months after the next required leak test is performed or until the source is transferred or disposed of.

Section 32.52 is amended to require that records of transfer of byproduct material in devices generally licensed under § 31.5 shall be maintained for a period of five years after the transfer.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Parts 20, 30, 31, 32, 34, 40, 50, 55, 70, and 150 are published as a document subject to codification.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The first sentence of § 20.102(c)(2) of 10 CFR Part 20 is revised to read as follows:

§ 20.102 Determination of accumulated dose.

(c) * * *

(2) The licensee shall retain and preserve records used in preparing Form NRC-4 until the Commission authorizes their disposition. * * *

2. Section 20.401(c) is revised to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

(c)(1) Records of individual exposure to radiation and to radioactive material which must be maintained pursuant to the provisions of paragraph (a) of this section and records of bioassays, including results of whole body counting examinations, made pursuant to § 20.108, shall be preserved until the Commission authorizes disposition.

(2) Records of the results of surveys and monitoring which must be maintained pursuant to paragraph (b) of this section shall be preserved for two years after completion of the survey except that the following records shall be maintained until the Commission authorizes their disposition: (i) records of the results of surveys to determine compliance with § 20.103(a); (ii) in the absence of personnel monitoring data, records of the results of surveys to determine external radiation dose; and (iii) records of the results of surveys used to evaluate the release of radioactive effluents to the environment.

(3) Records of disposal of licensed material made pursuant to §§ 20.302, 20.303, or 20.304 shall be maintained until the Commission authorizes their disposition.

(4) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(5) If there is a conflict between the Commission's regulations in this part, license condition, or technical specification, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission pursuant to § 20.501, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

3. Section 30.51 of 10 CFR Part 30 is revised to read as follows:

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31–36 shall keep records showing the receipt, transfer, export, and disposal of such byproduct material.

(b) Records which are required by the regulations in this part and Parts 31–36 or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(c)(1) Records of receipt of byproduct material which must be maintained pursuant to paragraph (a) of this section shall be maintained as long as the licensee retains possession of the byproduct material and for two years following transfer, export, or disposal of the byproduct material. (2) Records of export of byproduct material shall be maintained for two years after such event. (3) Records of transfer of byproduct mate-

rial shall be maintained by the licensee who transferred the material for five years after such transfer. (4) Records of disposal of byproduct material shall be maintained in accordance with § 20.401 (c) of this chapter.

(d) (1) Records which must be maintained pursuant to this part and Parts 31-36 may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part and Parts 31-36, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part and Parts 31-36 for such records shall apply unless the Commission, pursuant to § 30.11, has granted a specific exemption from the record retention requirements specified in the regulations in this part or Parts 31-36.

4. Section 30.54 of Part 30 is amended by adding the following sentence at the end of paragraph (a):

§ 30.54 Control and accounting procedures for tritium.

(a) * * * The written material control and accounting procedures shall be maintained as long as the licensee retains possession of the tritium and for two years following transfer or export of the tritium.

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

5. Section 31.5 of 10 CFR Part 31 is amended by changing the semicolon at the end of paragraph (c) (4) to a period and adding the following sentences at the end of paragraph (c) (4):

§ 31.5 Certain measuring, gauging or controlling devices.

(c) * * * Records of tests for leakage of radioactive material required by paragraph (c) (2) of this section shall be maintained for one year after the next required leak test is performed or until the sealed source is transferred or disposed of. Records of tests of the on-off mechanism and indicator, required by paragraph (c) (2) of this section, shall be maintained for one year after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of. Records which are required by paragraph (c) (3) of this section shall be maintained for a period of two years from the date of the recorded event or until the device is transferred or disposed of;

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

6. Section 32.20 of 10 CFR Part 32 is amended by revising the first sentence to read as follows:

§ 32.20 Same: records and material transfer reports.

Each person licensed under § 32.18 shall maintain records of transfer of material for a period of two years after such transfer, identifying, by name and address, each person to whom byproduct material is transferred for use under § 30.18 of this chapter or the equivalent regulations of an Agreement State, and stating the kinds and quantities of byproduct material transferred. * * *

7. Section 32.52 is amended by adding the following sentence at the end of paragraph (c):

§ 32.52 Same: material transfer reports and records.

Each person licensed under § 32.51 to distribute devices to generally licensed persons shall:

(c) * * * The records required by this paragraph shall be maintained for a period of five years from the date of the recorded event.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

8. Section 34.24 of 10 CFR Part 34 is amended by revising the second sentence to read as follows:

§ 34.24 Radiation survey instruments.

* * * Each radiation survey instrument shall be calibrated at intervals not to exceed three months and after each instrument servicing and a record shall be maintained of the results of each instrument calibration and date thereof for two years after the date of calibration. * * *

9. Paragraph (c) of § 34.25 is amended by revising the last sentence to read as follows:

§ 34.25 Leak testing, repair, tagging, opening, modification and replacement of sealed sources.

(c) * * * Records of leak test results shall be kept in units of microcuries and maintained for inspection by the Commission for six months after the next required leak test is performed or until the sealed source is transferred or disposed of.

10. Section 34.26 is revised to read as follows:

§ 34.26 Quarterly inventory.

Each licensee shall conduct a quarterly physical inventory to account for all sealed sources received and possessed under his license. The records of the inventories shall be maintained for two

years from the date of the inventory for inspection by the Commission, and shall include the quantities and kinds of byproduct material, location of sealed sources, and the date of the inventory.

11. Section 34.27 is amended by revising the prefatory language to read as follows:

§ 34.27 Utilization logs.

Each licensee shall maintain current logs, which shall be kept available for two years from the date of the recorded event, for inspection by the Commission, at the address specified in the license, showing for each sealed source the following information:

12. Paragraph (b) of § 34.33 is amended by revising the last sentence to read as follows:

§ 34.33 Personnel monitoring control.

(b) * * * The film badge reports received from the film badge processor and records of the pocket dosimeter and pocket chamber readings shall be maintained for inspection by the Commission until the Commission authorizes their disposition.

13. Paragraph (d) of § 34.43 is revised to read as follows:

§ 34.43 Radiation surveys and survey records.

(d) Records shall be kept of the surveys required by paragraph (c) of this section. Such records shall be maintained for inspection by the Commission for two years after completion of the survey. If the survey was used to determine an individual's exposure, however, the records of the survey shall be maintained until the Commission authorizes their disposition.

PART 40—LICENSING OF SOURCE MATERIAL

14. Section 40.61 of 10 CFR Part 40 is revised to read as follows:

§ 40.61 Records.

(a) Each person who receives source material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, export, and disposal of such source material.

(b) Records which are required by the regulations in this part or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(c) (1) Records of receipt of source material which must be maintained pursuant to paragraph (a) of this section shall be maintained as long as the licensee retains possession of the source material and for five years following transfer, export, or disposition of the

source material. (2) Records of export of source material shall be maintained for five years after such event. (3) Records of transfer of source material shall be maintained by the licensee who transferred the material until the Commission authorizes their disposition. (4) Records of disposal of source material shall be maintained in accordance with § 20.401 (c) of this chapter. (5) If source material is combined or mixed with other licensed material and subsequently treated in a manner which makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, evaluative techniques such as first-in-first-out may be used for purposes of the records retention requirements of this paragraph.

(d) (1) Records which must be maintained pursuant to this part may be the original or reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 40.14, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

15. Paragraph (p) of § 50.54 is amended by revising the last sentence to read as follows:

§ 50.54 Conditions of Licenses.

(p) * * * The licensee shall maintain records of changes to the plan made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Commission a report containing a description of each change within two months after the change is made.

16. Section 50.59 is amended by adding the following sentence at the end of paragraph (b):

§ 50.59 Changes, tests and experiments.

(b) * * * The records of changes in the facility shall be maintained until the date of termination of the license, and records of changes in procedures and records of tests and experiments shall be maintained for a period of five years.

17. In § 50.71 of 10 CFR Part 50, new paragraphs (c) and (d) are added to read as follows:

§ 50.71 Maintenance of records, making of reports.

(c) Records which are required by the regulations in this part, by license condition, or by technical specification, shall

be maintained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, such records shall be maintained until the Commission authorizes their disposition.

(d) (1) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 55—OPERATORS' LICENSES

18. Appendix A of 10 CFR Part 55 is amended by revising paragraph 5 to read as follows:

REQUALIFICATION PROGRAM REQUIREMENTS

5. Records.

a. Records of the requalification program shall be maintained for a period of two years from the date of the recorded event to document the participation of each licensed operator and senior operator in the requalification program. The records shall contain copies of written examinations administered, the answers given by the licensee, results of evaluations and documentation of any additional training administered in areas in which an operator or senior operator has exhibited deficiencies.

b. Records which must be maintained pursuant to this appendix may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

c. If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 55.7, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 70—SPECIAL NUCLEAR MATERIAL

19. Section 70.32 is amended by revising the prefatory language of the last sentence of paragraph (c) and revising the last sentence of paragraph (e) to read as follows:

§ 70.32 Conditions of licenses.

(c) * * * The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for a pe-

riod of five years from the date of the change, and shall furnish to the Commission a report containing a description of each change within: * * *

(e) * * * The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of two years from the date of the change, and shall furnish to the Commission a report containing a description of each change within two months after the change is made.

20. Section 70.51 is amended by revising paragraph (b) and adding a new paragraph (d) to read as follows:

§ 70.51 Material balance, inventory and records requirements.

(b) (1) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, import, export, and transfer of all special nuclear material in his possession regardless of its origin or method of acquisition.

(2) Records which are required by the regulations in this part or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(3) Records of receipt, acquisition, physical inventory, or import of special nuclear material which must be maintained pursuant to paragraph (b) (1) of this section shall be maintained as long as the licensee retains possession of the material and for five years following transfer or export of such material. Records of inventory maintained to demonstrate compliance with paragraph 70.58(h) shall be maintained for six months.

(4) Records of export of special nuclear material shall be maintained for five years after such event.

(5) Records of transfer of special nuclear material to other persons shall be maintained by the licensee who transferred the material until the Commission authorizes their disposition. Records required by paragraph (e) (1) (v) of this section shall be maintained for five years.

(6) Records of disposal of special nuclear material shall be maintained in accordance with § 20.401(c) of this chapter.

(i) (1) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period

specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 70.14, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

21. Section 150.18 of 10 CFR Part 150 is amended by adding the following sentences at the end of paragraph (a):

§ 150.18 Control and accounting procedures for tritium.

(a) * * * The written material control and accounting procedures shall be maintained as long as the licensee of the Agreement State retains possession of the tritium and for two years following transfer or export of the tritium. Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after prolonged storage.

Effective date. These amendments become effective on June 2, 1976.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Secs. 201, as amended, 301, Pub. L. 93-438, 88 Stat. 1242, 88 Stat. 1248, Pub. L. 94-79, 89 Stat. 413, (42 U.S.C. 5841, 5871)).

Dated at Washington, D.C., this 28th day of April 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 76-12851 Filed 4-30-76; 8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Increased Pricing Flexibility; Reallocation of Increased Product Costs Among Products by Resellers and Retailers

A. Introduction. In its notice of proposed rulemaking and public hearing on proposals for increased pricing flexibility, issued October 17, 1975 (40 FR 49372, October 22, 1975) the FEA proposed, among other things, to permit reallocation of increased product cost among products by resellers and retailers. Other proposals related to regional pricing by refiners, resellers and retailers; elimination of the once-a-month price increase limitation applicable to sales of gasoline and No. 2 oils by refiners, resellers and retailers; and review of FEA Ruling 1975-16 concerning non-product cost increases.

The proposal to eliminate the once-a-month price increase limitation was adopted by FEA in a regulation amendment effective January 1, 1976 (41 FR 1267, January 7, 1976). The proposal to permit regional pricing by refiners, resellers and retailers contains issues of

considerable complexity and this matter remains under review by FEA. The FEA has also reached no decision as yet concerning possible clarification and/or modification of Ruling 1975-16 or the regulations which are the subject of that ruling.

The regulation amendment adopted today permits resellers and retailers to reallocate increased product costs among products in the same general manner that refiners are permitted to reallocate increased product costs for purposes of determining maximum allowable prices (i.e., increased product costs generally may be reallocated to, but not from, gasoline; no increased product costs attributable to any product may be reallocated to propane, No. 2 oils, or aviation jet fuel; and increased product costs may be reallocated among the various products included in the category of general refinery products as defined in § 212.31 (other than propane) but may not be reallocated to the general refinery products category from any other product).

Fourteen written comments (including two late comments) and eight oral presentations were received on the proposal to permit reallocation of increased product costs among products by resellers and retailers. All of these comments and presentations were considered by FEA, as well as other information available to it, in arriving at the regulatory amendment adopted today.

B. Comments. Nearly all comments received favored adoption of the proposal to permit reallocation of increased product costs among products sold by resellers and retailers to the same extent that such reallocation is permitted to refiners. This proposal was generally favored because it was viewed as a measure which would put resellers and retailers on an "equal footing" with refiners under the regulations and would constitute a further step toward the desired goal of increased pricing flexibility and removal of unnecessary regulations.

It should be noted that some resellers and retailers sell essentially only one petroleum product (such as gasoline or home heating oil) and those resellers and retailers which do sell more than one petroleum product typically do not sell as wide a range of petroleum products as refiners typically do. To this extent, the amendments adopted today cannot provide all resellers and retailers with the same degree of flexibility to reallocate product cost increases as refiners generally enjoy. Nevertheless, the amendments adopted today do provide a further measure of pricing flexibility to resellers and retailers and generally do make available to them the same regulatory authority to reallocate product cost increases as is available to refiners.

FEA's refiner rules permit more than a proportionate amount of product cost increases to be passed through in gasoline prices essentially for two reasons: (1) to a considerable degree motor gasoline consumption is discretionary (especially in comparison with consumption of home heating oil or propane), and it

seems fairer to permit the products the consumption of which is relatively more discretionary to bear a disproportionate share of increased product costs, and (2) since gasoline sales constitute the largest proportion (about half) of refinery output higher prices for gasoline can be expected to contribute significantly to the important national goal of energy conservation through reduced demand. To the extent that these reasons support the FEA policy of permitting gasoline prices to bear a disproportionate amount of increased product costs at the refiner level, those same reasons support the permissive reallocation of product cost increases to gasoline prices at the reseller and retailer level.

Some comments indicated concern that the reallocation of increased product costs permitted for gasoline or other products at the refiner level, if extended to the reseller and the retailer level, might result in a degree of compounding of this effect which was not anticipated. However, there are several factors which FEA believes will limit any undue "compounding" and avoid any undue price increases on any petroleum products. As mentioned above, there are many resellers and retailers which are one-product dealers (i.e., dealers which do not sell more than one petroleum product or do not sell additional petroleum products in sufficient quantity for there to be any significant price impact if product cost increases are permitted to be reallocated to their large volume primary product). These dealers will not be able to reallocate any product cost increases to any significant degree. In addition, those resellers and retailers which do have a wide range of petroleum products will not necessarily reallocate costs to the same products or in the same manner as the refiner from which they obtain supplies and may in fact reallocate costs in a manner which will counteract the price effect of the refiner's cost reallocation. Finally, the presence of strong price competition, particularly at the retail level, should serve to restrain in practice the pricing results which theoretically might result from a regulation amendment designed to afford increased pricing flexibility.

It was also suggested in the comments that reallocation of costs by resellers and retailers might "undo" the effects of cost reallocation by refiners, to the extent that resellers and retailers uniformly reallocate costs away from products that refiners have reallocated costs toward, or vice versa. It has already been noted that one-product marketers and other marketers which do not have as broad a range of products as refiners will not be able to reallocate costs to the same extent as refiners (if at all). In addition, there is the further consideration that resellers and retailers cannot be expected to act with unanimity with respect to reallocation of product cost increases, but to reallocate costs within the limitations of the regulations, depending upon a variety of marketing considerations. Authority to reallocate at the reseller/retailer level is expected to be used primarily to alleviate particular local or re-

glonal pricing anomalies which may have developed in part because of price and allocation controls. Thus, it appears more likely that there will be a wide variety of individual responses to the reseller/retailer cost reallocation authorized today, than that there will be any uniform "compounding" or "undoing" of the cost reallocation permitted at the refiner level.

Independent gasoline retailers expressed the concern that if wholesale suppliers are permitted to reallocate product cost increases from other products to gasoline the independent retailers may be forced to absorb this cost increase. They point out that price competition will probably not permit these increased costs to be passed through on gasoline and, at the same time, the burden of these increased product costs incurred by retailers cannot be shifted by them to other products. It was therefore suggested that the product restrictions on cost reallocation be removed and that unlimited discretion be afforded resellers and retailers with respect to reallocation of product cost increases among products.

FEA has concluded, however, that the reasons which support the pre-existing product restrictions on reallocation of increased product costs by refiners continue to support those restrictions as to refiners, and that for the same reasons those same restrictions should be applied to resellers and retailers. While the further measure of increased pricing flexibility brought by today's amendments may have competitive results which some individual marketers may find disadvantageous, the FEA believes that this consideration is outweighed by the overall benefits to be gained by permitting normal competitive market forces to play the same role in pricing decisions under the FEA's reseller/retailer regulations at this juncture that they have played heretofore under the refiner regulations, and that independent marketers, as a class, will therefore benefit from today's amendments.

In this connection it should be noted that among the most recent amendments to the EPAA (those contained in the Energy Policy and Conservation Act [EPCA], P.L. 94-163, which became law on December 22, 1975) there is a provision requiring reevaluation of the FEA price and allocation regulations with a view toward modification of any provisions in order to better achieve the objectives of the EPAA and elimination of any provisions no longer needed to attain those objectives. The Conference Report on the EPCA states that, among other matters to be considered in reviewing its regulations, the FEA should evaluate "the feasibility of removing controls from the retail and/or wholesale level."

It was also suggested that FEA clarify the relationship between FEA price regulations permitting cost reallocation by resellers and retailers and anti-trust laws or state laws which may prohibit certain trade practices (e.g., selling at below cost). The sole purpose of the amendments adopted today is to provide addi-

tional pricing flexibility to resellers and retailers. In effect, today's amendments partially remove restrictions on cost reallocation which were imposed by the product-by-product increased cost pass-through system of price controls on petroleum resellers and retailers, as originally promulgated by the Cost of Living Council in Phase IV. In relaxing these regulatory restrictions to afford resellers and retailers a greater degree of pricing flexibility, FEA does not intend thereby to supercede any state or federal law which may otherwise restrict in some way the pricing practices of any firm.

C. Amendments. 1. *Reallocation of Increased Product Costs.* The cost reallocation provisions are contained in a new paragraph (i) added to § 212.93, which is adopted substantially in the form in which it was proposed. Paragraph (i) provides that increased product costs may be reallocated as follows: (1) general refinery products other than propane—may be reallocated only to gasoline or to other general refinery products (except propane); (2) No. 2 oils—may be reallocated only to gasoline; (3) aviation jet fuel—may be reallocated only to gasoline; (4) propane—may be reallocated only to gasoline or to other general refinery products; and (5) gasoline—may not be reallocated to any other product.

Also, although not specifically proposed, further provisions of paragraph (i) provide the means whereby such reallocations are to be made. In essence, the "increased product cost" calculated pursuant to § 212.92, which is a per unit amount used to calculate maximum allowable prices, will be adjusted downward or upward, as appropriate, to reflect the total dollar amount which is reallocated among products. Thus, for example, if a seller (1) had 100,000 gallons of propane in inventory which had an increased product cost of \$.30 per gallon (i.e., the difference between the weighted average unit cost of that product in inventory on May 15, 1973 and the current weighted average unit cost of that product in inventory); (2) elected to transfer a total dollar amount of \$3,000 of increased product costs from propane to gasoline; and (3) had 300,000 gallons of gasoline in inventory which had an increased product cost of \$.20 per gallon, the reallocation would be accomplished by reducing the increased product cost of 100,000 gallons of propane by \$.03 per gallon (\$3,000/100,000 gal.), and by increasing the increased product cost of gasoline by \$.01 per gallon (\$3,000/300,000 gal.).

2. *"Increased Product Costs."* The term "increased costs," which is defined in § 212.92, has been a source of confusion because references to "increased costs," out of context, may be taken to include both product and non-product cost increases. While the text of the definition itself makes it clear that "increased costs" are increased cost of production inventory (i.e., product costs), comments received in connection with Rulings 1975-14 and 1975-16 contained allegations by certain firms that references to "increased costs" elsewhere in the reseller/retailer rules have been mistaken as

references to operating cost increases as well as product cost increases. In view of the fact that in recent amendments to § 212.93 (d) and (g) the term "increased product costs" instead of "increased costs" has been employed, and in view of the fact that adoption of a reallocation rule for resellers and retailers requires use of the term under discussion, FEA has made a conforming change which substitutes the term "increased product costs" for "increased costs," wherever it appears in 10 CFR Part 212, Subpart F. To avoid confusion between this redesignated term and the identical term as used (subject to a different definition) in the refiner rules in 10 CFR Part 212, Subpart E, the definition of "increased product costs" under § 212.92 has been made applicable, by express terms, for purposes of Subpart F only.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790; 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., April 28, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 212.92 is amended to read as follows:

§ 212.92 Definitions.

For purposes of this Subpart—
"Increased product costs" means the difference between the weighted average unit cost of a product in inventory and the weighted average unit cost of that product in inventory on May 15, 1973. (Decreases in the weighted average unit cost of a product in inventory in successive accounting periods are reflected in reductions in the amount of increased costs incurred in those accounting periods, in accordance with § 212.93(c).) If a particular product was not in inventory on May 15, 1973, the date for computing the cost is the most recent day preceding May 15, 1973, when the seller had the product in inventory.

2. Section 212.93 is amended in paragraphs (a), (e) and (f) by inserting the word "product" immediately following the word "increased" wherever it appears.

3. Section 212.93 is further amended to add a new paragraph (i) to read as follows:

§ 212.93 Price rule.

(i) *Reallocation of increased product costs among products.* (1) Notwithstanding any other provision of this subpart, increased product costs may be reallocated among products as provided in this paragraph.

(2) Increased product costs may be reallocated only as follows:

(i) *General refinery products.* To the extent that a seller does not allocate its

increased product costs for a particular general refinery product, other than propane, to the prices for that product, it may reallocate the unallocated part of its increased product costs for the product to the prices for gasoline or for any other general refinery product (or products) except propane, in whatever amounts the seller deems appropriate. No increased product costs for general refinery products other than propane may be reallocated to the prices for No. 2 oils, for propane, or for aviation jet fuel.

(ii) *No. 2 oils.* To the extent that a seller does not allocate its increased product costs for No. 2 oil to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased product costs for No. 2 oils may be reallocated to the prices for any general refinery product or products, including propane, or for aviation jet fuel.

(iii) *Aviation jet fuel.* To the extent that a seller does not allocate its increased product costs for aviation jet fuel to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased product costs for aviation jet fuel may be reallocated to the prices for any general refinery product or products, including propane, or for No. 2 oils.

(iv) *Propane.* To the extent that a seller deems appropriate. No increased product costs for propane to the prices for that product, it may reallocate the unallocated part of its increased product costs for that product to the prices for gasoline or for any other general refinery product (or products), or for both or all of them, in whatever amounts the seller deems appropriate. No increased product costs for propane may be reallocated to the prices for No. 2 oils or for aviation jet fuel.

(v) *Gasoline.* No increased product costs for gasoline may be reallocated to the prices for any other covered product.

(3) With respect to each reallocation of increased product costs pursuant to this paragraph, a seller shall:

(i) determine the increased product cost pursuant to the definition of § 212.92 of the product from which increased product costs are to be reallocated, but without regard to such reallocation, and then adjust downward the amount so determined, for purposes of determining maximum allowable prices of that product, by a per unit amount which is equal to the total dollar amount which is reallocated from such product, divided by the same number of units in inventory as was first used to determine the unadjusted amount of increased product cost of such product, and

(ii) determine the increased product cost pursuant to the definition of § 212.92 of the product to which increased product costs are to be reallocated, but without regard to such reallocation, which amount may then be adjusted upward, for purposes of determining maximum

allowable prices of that product, by a per unit amount which is not more than the total dollar amount which is reallocated to such product, divided by the same number of units in inventory as was first used to determine the adjusted amount of increased product cost of such product.

(4) A seller that reallocates increased product costs among products shall maintain records with respect to each such reallocation which are adequate to demonstrate compliance with the requirements of this section.

[FR Doc. 76-12801 Filed 4-28-76; 4:32 am]

PART 213—OIL IMPORT REGULATIONS

Amendments Conforming to Part 214

On April 7, 1976, the Federal Energy Administration (FEA) issued proposed amendments to Part 213 (Oil Import Regulations) of Chapter II of Title 10, Code of Federal Regulations, providing for implementation of the Mandatory Oil Import Program in conformity with the program allocating Canadian crude oil under Part 214 (41 FR 15035, April 9, 1976). FEA has now considered the public comment thereon, and hereby adopts such amendments as proposed with certain modifications as explained below.

I. *Public comment.* One concern of the comments was that FEA's proposal to grant import licenses in the amount of crude oil rights issued, would prevent persons who import unfinished oils on a fee-exempt basis from continuing to do so. Since this was not the intent of the proposal, FEA has modified its proposal, as explained below, to insure that imports of unfinished oils may continue to be made on a fee-exempt basis, subject to the scheduled phase-out of such imports as provided in Section 8 of Proclamation No. 3279, as amended.

In addition, concern was expressed that the six-month allocation period in § 213.28, which authorizes exchanges of domestic and Canadian materials pursuant to a fee-exempt license, was not sufficient in light of the complexity of such exchanges. FEA agrees that a longer period would be appropriate, and has therefore extended this period to twelve months. Also in this connection, concern was expressed that the exchange procedure could be abused if the Canadian material received in exchange were not required to be processed in the licensee's own facility. On the basis of this concern FEA has modified § 213.28 to provide for such a processing requirement.

A further suggestion was made that the proposal be modified so that crude oil burned in electrical generating units, which is subject to allocation under Part 214 but which is classified as residual fuel oil for the purposes of Part 213, could be included in the general fee-exempt license granted with respect to crude oil allocated under Part 214. However, the proposed amendments already provide that all crude oil allocated under Part 214, irrespective of any further end-use

classification under Part 213, may be imported pursuant to the general fee-exempt license provided by the revised § 213.28(a). Therefore, FEA has determined that the suggested modification is not necessary.

Finally, some comments suggested that importers be permitted to replace fee-exempt Canadian crude for which they may no longer receive allocations, with fee-exempt offshore crude. However, inasmuch as Canadian imports are included in qualified refinery inputs and earn offshore allocations, the awarding of supplementary offshore allocations would result in those refiners' receiving allocations on a basis more favorable than that applicable to other refiners. FEA has determined that there is no justification for such discriminatory treatment, and therefore it has not modified its proposal in this regard.

II. *Conforming amendments to the oil import regulations.* A. *Allocations Under Part 214.* Effective May 1, 1976, a general allocation and license which is not subject to fee will be in effect under § 213.28 (Canadian imports—District I-IV and District V) with respect to each person to whom any Canadian crude oil rights have been or will be issued, or received through transfer, and to each person who is acting as the importer of record for any other person to whom any Canadian crude oil rights have been or will be issued or received through transfer, in accordance with Part 214. Thereafter, all imports from Canada of crude oil (including condensates) will be subject to this revised § 213.28. Imports from Canada of unfinished oil will, as explained below, be subject to revised §§ 213.33 and 213.36, and § 213.38 will be revoked.

Under the revised § 213.28, each importer will be authorized to utilize the general license where he certifies to the District Director of Customs that material imported thereunder will be utilized in accordance with Part 214. Imports made pursuant to the revised § 213.28 will continue to be subject to the reporting requirements applicable under § 213.23.

B. *Exchanges of Material Not Allocated Under Part 214.* In accordance with the intent of Part 214 to permit exchanges of Canadian for domestic or foreign materials, where any Canadian crude oil exchanged is not a factor in calculating permissible Canadian export levels, the revised § 213.28 will authorize the issuance of import allocations without reference to the amount of Canadian crude oil rights held by an importer. This procedure will provide that whenever crude oil, unfinished oils, or finished products produced in the United States or imported into United States customs territory, is intended to be exchanged for a corresponding quantity of crude oil or unfinished oils not allocated under Part 214, the importer of record shall request approval for such exchange from the Director, and shall certify as to the types and quantities of the materials involved. Each such exchange will be approved if the Director determines that the proposed exchange is consonant with

the purposes of Proclamation No. 3279, as amended. Upon approval, the Director shall issue to the importer of record an allocation not subject to fee for the full amount of the material to be imported, which allocation shall be effective for a period of twelve months from the date of issuance. The Director will then issue a license against the allocation, which license must be returned to the Director by the District Director of Customs upon its expiration. As indicated above, the proposed exchange procedure has been modified so that all Canadian material received as a result of such an exchange, will be required to be processed in the licensee's own facility.

C. Material Not Allocated Under Part 214 and not the subject of a Fee-Exempt Exchange. A certain amount of Canadian crude oil may be imported which is not a factor in the calculations for the maximum export levels, and which is also not intended to be exchanged for domestic oil under the procedure described above. As in the proposal § 213.28 will require that when a person intends to make such an import, he may apply for a fee-exempt allocation in the quantity of such imports. All such applications will be processed in the order that they are received, and no such application will be entertained unless accompanied by a certification that such person has entered into a contract which entitles him to purchase such oil. Upon receipt of such application, and if he determines that the proposed purchase is consonant with the purposes of Proclamation No. 3279, as amended, the Director will issue to such person an allocation not subject to fee in the amount of the intended imports, which allocation will be reduced, if necessary, to reflect the maximum levels of crude oil which may be imported from Canada in accordance with Section 2 of Proclamation No. 3279, as amended. The Director will issue to such person a license against such allocation in the full amount of that allocation, which license will be required to be returned to the Director by the District Director of Customs upon its expiration. To the extent that the intended imports are not covered by an allocation issued pursuant to this procedure, they will be subject to payment of fees in accordance with § 213.35.

D. Unfinished Oils. Section 213.33, which provides for alternate annual allocation periods for imports from Canada, will no longer be necessary with respect to crude oil in light of the general licensing procedures under § 213.28. Accordingly, FEA had proposed that it be revoked. However, since such revocation would adversely affect some importers of unfinished oils, § 213.33 has been reinstated but revised so as to delete crude oil from its coverage and provide a revised formula for allocating unfinished oils (except those allocated by Part 214) to Districts I-IV. Under this new formula, each allocation will be equal to:

[Eligible applicant's Canadian imports [i.e., imports from Canada of unfinished oils, except those currently allocated under Part 214] during the period May 1, 1973 to April 30, 1974 expressed in average barrels per day] X .65

The amount of such allocations, plus the amount of unfinished oils allocated to District V under § 213.36 (see below), and the amount of crude oil allocated pursuant to general license and the procedure for non-fee-exempt exchanges under § 213.28, shall not be permitted to exceed the maximum amount of fee-exempt imports from Canada authorized under Proclamation No. 3279, as amended, for the allocation period beginning May 1, 1976, i.e., 808,000 average barrels per day per year. Under the current Canadian schedule of imports, FEA does not expect that this amount will be exceeded. However, should that schedule change, § 213.33 would be revised accordingly, giving preference to imports of crude oil.

Likewise, § 213.36, which provides for annual allocations of imports from Canada into District V, will no longer be necessary with respect to crude oil since § 213.28 now covers District V in addition to District I-IV. Accordingly, FEA had proposed to delete it. However, in view of FEA's decision not to affect adversely fee-exempt allocations of unfinished oils, § 213.36 has been reinstated but revised to delete crude oil from its coverage and provide for a revised formula for allocating unfinished oils. Such formula is the same as that provided in § 213.33, discussed above, and the limitation on total allocations made under § 213.36 is also the same.

While the regulations affecting unfinished oils under § 213.33 and § 213.36 will be effective May 1, 1976, FEA recognizes that the public may have further comments on their substantive requirements. Therefore, FEA will accept comments thereon, and to the extent that such comments indicate the need for further revision, FEA shall make the necessary modifications after May 1.

Interested persons are invited to submit written data, views, or arguments with respect to this issue to Executive Communications, Room 3309, Federal Energy Administration, Box GV, the Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the FEA with the designation "Allocation of Unfinished Oils from Canada." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., May 21, 1976, will be considered by the FEA in evaluating these amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

E. Natural Gas Products. As provided in the proposal, § 213.38 (Imports of Canadian natural gas products—Districts I-IV) is revoked effective May 1, 1976.

[Federal Energy Administration Act of 1974, P.L. 93-275; E.O. 11790, 39 FR 23185; Trade

Expansion Act of 1962, P.L. 88-794, as amended; Proclamation No. 3279, as amended].

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below effective May 1, 1976.

Issued in Washington, D.C., April 30, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Section 213.3 is amended by deleting paragraph (f), and revising paragraphs (c) and (d) to read as follows:

§ 213.3 Allocation periods.

(c) Except as provided in § 213.10 and paragraphs (a) and (b) of § 213.28, allocations will be made for periods of twelve months beginning May 1 of each year.

(d) Allocation periods for allocations made pursuant to § 213.10 and paragraphs (a) and (b) of § 213.28 shall be as provided in that section.

2. Section 213.28 is revised to read as follows:

§ 213.28 Canadian crude oil imports; exchanges—Districts I-IV and District V.

(a) (1) Effective May 1, 1976, an allocation and license which is not subject to fee shall be in effect with respect to each person to whom any Canadian crude oil rights have been or will be issued, or received through transfer, and to each person who is acting as the importer of record for any other person to whom any Canadian crude oil rights have been or will be issued or received through transfer, in accordance with Part 214.

(2) Each licensee under subparagraph (1) is authorized to utilize such license where he certifies to the District Director of Customs that the material imported thereunder shall be utilized in accordance with Part 214.

(3) All imports made pursuant to this paragraph (a) shall be subject to reporting requirements applicable under § 213.23.

(b) (1) **Exchanges of Material Not Allocated Under Part 214.** Whenever crude oil, unfinished oil, or finished products produced in the United States or imported into United States customs territory, are intended to be exchanged for a corresponding quantity of crude oil or unfinished oils imported from Canada and not subject to allocation under Part 214, the importer of record shall request approval of such exchange from the Director, and shall certify as to the types and quantities of the materials involved. Each such exchange shall be approved if the Director determines that the proposed exchange is consonant with the purposes of Proclamation No. 3279, as amended. Upon approval, the Director shall issue to the

importer of record an allocation not subject to fee for the full amount of the material to be imported, which allocation shall be effective for a period of twelve months from the date of issuance. The Director shall issue to the importer of record a license against such allocation in the full amount of that allocation, which license shall be returned to the Director by the District Director of Customs upon its expiration.

(2) Crude oil and unfinished oils imported pursuant to a license issued under this paragraph (b), shall be processed in the licensee's own facility.

(c) *Material Not Allocated Under Part 214 and Not the Subject of a Fee-exempt Exchange.* Whenever a person intends to import crude oil which is not a factor in the calculations for the maximum export levels fixed by Canada, and not the subject of an exchange pursuant to paragraph (b) hereof, such person may apply for a fee-exempt allocation in the quantity of such intended imports. All such applications shall be processed in the order that they are received, and no such application shall be entertained unless accompanied by a certification, subject to the provisions of Section 1001 of Title 18 of the United States Code, that such person has entered into a contract which entitles him to purchase such oil. Upon receipt of such application, and if he determines that the proposed purchase is consonant with the purposes of Proclamation No. 3279, as amended, the Director shall issue to such person an allocation not subject to fee in the amount of the intended imports, which allocation shall, if necessary, be reduced to reflect the maximum levels of crude oil which may be imported from Canada in accordance with Section 2 of Proclamation No. 3279, as amended. The Director shall issue to such person a license against such allocation in the full amount of that allocation, which license shall be returned to the Director by the District Director of Customs upon its expiration. To the extent that the intended imports are not covered by an allocation issued pursuant to this paragraph (c), they shall be subject to § 213.35.

3. Section 213.33 is revised to read as follows:

§ 213.33 Imports of unfinished oils from Canada—Districts I-IV.

(a) The term "Canadian imports" as used in this section shall, except as provided in paragraph (f), mean imports from Canada of unfinished oils (except ethane, propane, and butanes) which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways, but shall not include any material subject to allocation under Part 214.

(b) To be eligible for an allocation of Canadian imports under this section, a person must have in District I-IV a facility capable of processing Canadian imports.

(c) The Director shall, in accordance with the terms of paragraph (d) (1) of this section, make allocations for the al-

location period May 1, 1976 through April 30, 1977 such that the amount of such allocations, plus the amount of allocations under § 213.36 and § 213.28 (a) and (c), shall not exceed 806,000 average barrels per day per year.

(d) (1) The Director shall make allocations not subject to license fees of

[Eligible applicant's Canadian imports into Districts I-IV during the period May 1, 1973 through April 30, 1974, expressed in barrels per day] $\times .65$

(2) The Director shall issue before May 1, 1976 to each eligible applicant a license equal to the total of the allocation calculated pursuant to subparagraph (1). Such licenses shall expire on April 30, 1977.

(e) (1) Except as provided in subparagraph (2), a person who imports Canadian imports must process all such imports in his own facility. For the purpose of this paragraph, blending by mechanical means does not constitute processing.

(2) (i) Canadian imports may be exchanged on a barrel for barrel basis for other Canadian imports but each person receiving Canadian imports in the exchange must process the imports received in his own facilities. Settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible.

(ii) Canadian imports which are sold to meet the requirements of regulations published by the Federal Energy Administration shall not be required to be processed in the licensee's own facility.

(f) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, not later than July 15, 1976 (1) the total quantity of Canadian imports which that person imported during the period May 1, 1975 through April 30, 1976 pursuant to an allocation made under § 213.28 and (2) the quantity of such imports that were processed in his facilities before July 1, 1976. The amount so reported and certified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by July 15, 1976 the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received. For the purpose of this paragraph only, "Canadian imports" shall mean both imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(g) An allocation made pursuant to this section shall not be sold, assigned or otherwise transferred.

[Eligible applicant's Canadian imports into District V during the period May 1, 1973 through April 30, 1974, expressed in barrels per day] $\times .65$

(2) The Director shall issue before May 1, 1976 to each eligible applicant a license equal to the total of the alloca-

Canadian imports to eligible applicants who received allocations of such imports for the period May 1, 1975 through April 30, 1976 pursuant to § 213.33. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

(h) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 7414, Washington, D.C. 20044, unless an application has been previously filed. Applications must have been received by April 30, 1976. An application must contain the following information which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of Canadian imports imported into Districts I-IV during the period May 1, 1973 through April 30, 1974 expressed in barrels per day.

4. Section 213.36 is amended to read as follows:

§ 213.36 Imports of unfinished oils from Canada—District V.

(a) The term "Canadian imports" as used in this section, shall, except as provided in paragraph (f), mean imports from Canada of unfinished oils (except ethane, propane, and butanes) which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways, but shall not include any material subject to allocation under Part 214.

(b) To be eligible for an allocation of Canadian imports under this section, a person must have in District V a facility capable of processing Canadian imports.

(c) The Director shall, in accordance with the terms of paragraph (d) (1) of this section, make allocations for the allocation period May 1, 1976 through April 30, 1977 such that the amount of such allocations, plus the amount of allocations under § 213.33 and § 213.28 (a) and (c), shall not exceed 806,000 average barrels per day per year.

(d) (1) The Director shall make allocations not subject to license fees of Canadian imports to eligible applicants who received allocations of such imports for the period May 1, 1975 through April 30, 1976 pursuant to § 213.36. Each such applicant shall be entitled to an allocation of Canadian imports calculated in accordance with the following formula:

tion calculated pursuant to subparagraph (1). Such licenses shall expire on April 30, 1977.

(e) (1) Except as provided for in subparagraph (2), a person who imports Canadian imports must process all such imports in his own facility. For the purpose of this paragraph, blending by mechanical means does not constitute processing.

(2) (i) Canadian imports may be exchanged on a barrel for barrel basis for other Canadian imports but each person receiving Canadian imports in the exchange must process the imports received in his own facilities. Settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible.

(ii) Canadian imports which are sold to meet the requirements of regulations published by the Federal Energy Administration shall not be required to be processed in the licensee's own facility.

(f) A person to whom an allocation is made by the Director under this section shall report and certify in writing to the Director, not later than July 15, 1976 (1) the total quantity of Canadian imports

which that person imported during the period May 1, 1975 through April 30, 1976 pursuant to an allocation made under § 213.28 and (2) the quantity of such imports that were processed in his facilities before July 1, 1976. The amount so reported and certified shall be subject to verification by the Director. If a person to whom an allocation is made under this section fails to file by July 15, 1976 the written report and certification required by this paragraph, the Director shall suspend all licenses issued under an allocation made under this section until the written report and certification are received. For the purpose of this paragraph only, "Canadian imports" shall mean both imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways.

(g) An allocation made pursuant to this section shall not be sold, assigned or otherwise transferred.

(h) An application for an allocation under this section shall be made by letter or telegram to the Director, Oil Imports, P.O. Box 7414, Washington, D.C. 20044, unless an application has been previously filed. Applications must have been received by April 30, 1976. An application must contain the following information which shall be certified by an officer of the applicant:

(1) The nature of each of the applicant's facilities in which Canadian imports will be processed.

(2) The location of each such facility.

(3) The total barrels of Canadian imports imported into District V during the period May 1, 1973 through April 30, 1974, expressed in barrels per day.

§ 213.38 [Amended]

5. Section 213.38 is revoked.

[FR Doc.76-12985 Filed 4-30-76; 11:04 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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 932]

HANDLING OF OLIVES GROWN IN CALIFORNIA

Proposed Rulemaking With Respect to an Increase in Expenses for the 1975-76 Fiscal Year

Consideration is being given to the following proposal submitted by the Olive Administrative Committee, established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

That the Secretary find that provisions pertaining to the expenses in paragraph (a) of § 932.210 (40 FR 54236; 59318) be amended to read as follows:

§ 932.210 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee, during the period September 1, 1975, through August 31, 1976, will amount to \$896,550.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than May 20, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 27, 1976.

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

[FR Doc. 76-12735 Filed 4-30-76; 8:45 am]

[7 CFR Part 26]

WHEAT

Proposed Revision of Standards
Correction

In FR Doc. 12079, appearing at page 17553 of the issue of Tuesday, April 27,

1976, the following changes should be made.

1. The paragraphs (1) through (3) and (b), in the third column on page 17557, should appear directly below § 26.304(a) in the second column on that page.

(a) *Grades and grade requirements for all classes of Wheat, except Mixed Wheat.* (See also § 26.308.)

2. The following heading should appear directly above the section heading for § 26.306:

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

3. Paragraph (a) of § 26.306 on page 17557 should read as follows:

Grade	Minimum test weight per bushel		Maximum limits of—							Wheat of other classes ³	
	Hard Red Spring wheat or White Club wheat	All other classes and sub-classes	Heat-damaged kernels	Damaged kernels (total) ⁴	Foreign material	Shrunk- en and broken kernels	Defects (total) ²	Contrasting classes	Wheat of other classes (total) ⁴		
	Pounds	Pounds	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent
U.S. No. 1.....	58	60	0.2	2	0.5	3	3	1	3	1	3
U.S. No. 2.....	57	58	.2	4	1.0	5	5	2	5	2	5
U.S. No. 3.....	55	56	.5	7	2.0	8	8	3	10	3	10
U.S. No. 4.....	53	54	1.0	10	3.0	12	12	10	10	10	10
U.S. No. 5.....	50	51	3.0	15	5.0	20	20	10	10	10	10

U.S. sample grade shall be wheat which:

- Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or
- Contains a quantity of smut so great that 1 or more of the grade requirements cannot be determined accurately; or
- Contains 8 or more stones, 2 or more pieces of glass, 3 or more *Crotalaria* seeds (*Crotalaria* sp.), 3 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 g of wheat; or
- Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
- Is heating or otherwise of distinctly low quality.

¹ Includes heat-damaged kernels.

² Defects (total), include damaged kernels (total), foreign material, and shrunk and broken kernels. The sum of these 3 factors may not exceed the limit for defects.

³ Unclassed wheat of any grade may contain not more than 10 pct of wheat of other classes.

⁴ Includes contrasting classes.

Farmers Home Administration

[7 CFR Part 1816, Part 1822, Part 1890, Part 1901]

PROGRAM-RELATED INSTRUCTION; CIVIL RIGHTS COMPLIANCE REQUIREMENTS

Proposed Redesignation—Consolidation—Revision

Notice is hereby given that the Farmers Home Administration (FmHA) has under consideration the establishment under Chapter XVIII, Title 7, a new subchapter H—"General, Part 1901, Program-Related Instructions," subparts A through K, in the Code of Federal Regulations. Subpart E, "Civil Rights Compliance Requirements," (§§ 1901.201-1901.250) of this new Part is transferred and redesignated from Part 1816, subpart L of Part 1822, and Part 1890 of this Chapter XVIII.

New subpart E consolidates into one regulation, with minor revisions, FmHA provisions relating to Title VI of the Civil Rights Act of 1964 and Title VIII of

the Civil Rights Act of 1968, and Executive Order 11246. This new subpart E also implements the Equal Credit Opportunity Act of 1974, with regard to prohibiting discrimination because of sex or marital status in credit transactions.

Interested persons are invited to submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, United States Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before June 2, 1976. All written submissions pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 am-4:45 pm).

Part 1816, subpart L of Part 1822 and Part 1890 are redesignated as subpart E of Part 1901.

As proposed, subpart E of Part 1901 as revised, consolidated and redesignated is set forth below:

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements *C*

Sec.	
1901.201	Purpose.
1901.202	Nondiscrimination in FmHA programs.
1901.203	Title VIII of the Civil Rights Act of 1968.
1901.204	Compliance reviews.
1901.205	Nondiscrimination in construction financed with FmHA loan or grant.
Exhibit A—	Civil Rights Compliance Reviews.
Exhibit B—	Summary Report of Civil Rights Compliance Reviews.

AUTHORITIES: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 5 U.S.C. 301; 42 U.S.C. 2942; Sec. 10 P.L. 93-357. 88 Stat. 392 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Subpart E—Civil Rights Compliance Requirements *C*

§ 1901.201 Purpose.

This subpart contains policies and procedures for implementing the regulations of the Department of Agriculture issued pursuant to Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11246 and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA). Nothing herein shall be interpreted to prohibit preference to American Indians on Indian Reservations.

§ 1901.202 Nondiscrimination in FmHA Programs.

(a) *Nondiscrimination by recipients of FmHA assistance.* (1) No recipient of FmHA financial assistance will directly or through contractual or other arrangements subject any person or cause any person to be subjected to discrimination on the ground of race, color, or national origin, with respect to any program or facility. This prohibition applies but is not restricted to unequal treatment in priority, quality, quantity, methods, or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement provided with FmHA financial assistance.

(2) Specifically, and without limiting the general applicability of this subpart, such recipient will not on the grounds of race, color, or national origin:

(i) Deny any person the use, occupancy, or enjoyment of the whole or any part of real or personal property or service, financial aid, or other benefit under any program or facility.

(ii) Provide any person with any service, use, occupancy, or other benefit different from that provided others by the program or facility.

(iii) Subject any person to segregation or separate treatment in any matter related to his or her receipt of any service or other benefit.

(iv) Restrict in any way any person's enjoyment of any right, privilege, or advantage enjoyed by others through the facility or activity.

(v) Treat any person differently from others in determining whether he or she satisfies any requirements or conditions for any admission or membership in the recipient or in any other organization.

(vi) Deny any person an opportunity or restrict opportunity to participate in a program or facility by:

(A) Refusing or failing to provide notice or services provided others for the purpose of encouraging participation in the program or facility; or

(B) Providing any person with such notice or services different from the notice or services provided others.

(vii) Utilize criteria or methods of administration that have the effect of subjecting a person to discrimination with respect to any program or facility or defeating or substantially impairing the achievement of the objectives of a program or facility.

(viii) Select sites or locate facilities with the purpose or effect of:

(a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which the regulations in this subpart apply; or

(b) Defeating or substantially impairing the achievement of the objectives of the regulations in this subpart.

(ix) Continue any previous or existing discriminatory practices, but will take affirmative action to overcome the effects of such discrimination.

(x) Deny any person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(b) *Nondiscrimination by FmHA employees.* (1) No FmHA employee will exclude from participation in, or deny the benefits of, any program or activity administered by FmHA, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, national origin, or marital status.

(2) No FmHA employee will:

(i) Be limited in the discharge of his or her responsibilities to working with applicants solely on the basis of race, color, religion, sex, national origin, or marital status.

(ii) Obstruct equal access to buildings, facilities, structures, or lands under the control of FmHA.

(iii) Deny under any program or activity of FmHA equal opportunity for employment; for participation in meetings demonstrations, training activities or programs; for receiving awards; for receipt of information disseminated by publication, news, radio, and other media; for obtaining contracts, grants, loans or other financial assistance, or for selection to assist in the administration of programs or activities of FmHA.

(3) No FmHA employee will, while conducting official business, participate in or attend any segregated meetings or meetings held in a segregated facility from which persons are excluded because

of race, color, religion, sex, national origin, or marital status.

(c) *Intimidating or retaliatory acts.* No recipient or other person will intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege under this subpart, or because a person has made a complaint or has testified assisted, or participated in any manner in an investigation, proceeding, or hearing related to a complaint. The identity of complainants will be kept confidential except to the extent necessary to carry out the purposes of this subpart.

(d) *Nondiscrimination Agreement.* The County Supervisor will, at the time FmHA assistance is requested, give all applicants for loans and grants listed in § 190.204(a) a copy of Form FmHA 400-4, "Nondiscrimination Agreement," and inform the applicant that assistance will be conditioned upon executing this form and complying with the requirements of this subpart.

(e) *Covenants.* Each instrument of conveyance for loans subject to Title VI of the Civil Rights Act of 1964, as outlined in § 1901.204, must contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(f) *Posters.* The nondiscrimination poster, "And Justice For All," will be displayed at the facilities and/or office of any borrower or grantee if the facilities have been financed by an FmHA loan or grant and are subject to Title VI of the Civil Rights Act of 1964. This poster also will be displayed in all FmHA State and County Offices.

(g) *Racial and ethnic data.* Recipients should maintain, for review by FmHA and other appropriate agencies, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of FmHA-assisted programs. The data should identify recipients as White, Negro or Black, American Indian, Spanish Surname, Oriental and Other.

(h) *Discrimination complaints.* (1) Any person or any specific class of persons, if they believe they have been subject to discrimination prohibited by this subpart, may file a written complaint with any FmHA office, or, if they prefer with the Secretary of Agriculture. Persons who complain of discrimination will be advised of their rights to file complaints. A complaint must be filed out later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture.

(2) A complaint filed with the County Supervisor or the State Director will be referred promptly to the Administrator, Attention: Equal Opportunity Officer. Attached to the complaint should be a

statement by the County Supervisor or State Director identifying the recipient and type of assistance provided by FmHA, indicating whether a nondiscrimination agreement has been signed, and giving any other available pertinent information about the complaint.

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

FmHA employees, FmHA borrowers, contractors, packagers, and others who provide housing for sale or rent, are obligated under the provisions of Title VIII of the Civil Rights Act of 1968 to provide fair housing to all persons regardless of race, color, religion, or national origin.

(a) *Coverage.* The prohibitions against discrimination in the sale, rental, or financing or housing contained in Title VIII apply to:

(1) All dwellings financed by loans made by the Federal Government and, therefore, to all RH borrowers.

(2) Any person in the business of selling or renting dwellings defined as:

(i) The owner of a dwelling intended for occupancy by five or more families.

(ii) Any person who has participated as principal in the sale or rental of three or more dwellings in the past year.

(iii) Any person who has served as sale or rental agent in two or more transactions in the past year.

(b) *Discrimination acts prohibited.* Title VIII prohibits FmHA employees, multiple housing borrowers, and those with whom FmHA does business (contractors, realtors, packagers) from:

(1) Refusing to sell or rent a particular dwelling because of a person's race, color, religion, or national origin. The following actions constitute violations of this provision:

(i) Refusing to package an RH loan application.

(ii) Refusing or failing to show a particular dwelling or home in a particular subdivision.

(iii) Directing persons only to areas populated by those of similar race, color, religion, or national origin when housing is available in other areas.

(iv) Representing unsold dwellings or sites as sold to prospective buyers.

(2) Requiring applicants for services to meet different terms or conditions because of their race, color, religion, or national origin; for example, requiring larger rents or downpayments from minority applicants.

(3) Including in any advertising either directly or through visual representation a preference for applicants of a particular race or ethnic origin.

(i) Words indicative of the race or ethnic background of the dwelling or landlord such as "White private home," or "all Black subdivision," may not be used in advertising housing financed or to be financed by FmHA.

(ii) Selection of advertising media and the areas to be covered by any advertising must be made to reach potential applicants of all races or ethnic origins.

(c) *Affirmative action.* (1) Recipients of FmHA Rural Rental Housing loans, Labor Housing loans or grants, and

Rural Housing Site loans, and packagers of applications for FmHA 502 loans must display the "Fair Housing Poster." Supplies of these posters for display in the borrower's or packager's sale or rental offices may be obtained from the County Supervisor who is responsible for seeing that these posters are prominently displayed.

(2) FmHA multiple housing borrowers and FmHA packagers are encouraged to:

(i) Actively publicize available housing or sites to minority and majority persons through the usual advertising methods, including minority publications or other minority outlets that are available.

(ii) Instruct their employees in the Fair Housing provisions of the Civil Rights Act of 1968.

(iii) Include the slogan "Equal Housing Opportunity" in printed advertising.

(iv) Show people of both the majority and minority races in the same advertisement if sketches or photos of people are being used.

(v) Provide housing opportunities for minority families outside areas of minority concentration and areas which are already substantially racially mixed.

(3) Applicants for FmHA multiple housing loans or grants must sign Form FmHA 400-4.

(4) Packagers of FmHA RH loan applications and applicants for conditional commitments must sign an "Equal Opportunity in Housing Certification," as part of Form FmHA 422-8, "Property Information and Appraisal Report (Rural Housing Nonfarm Tract)."

(d) *Discrimination complaints.* (1) Complaints against FmHA employees or borrowers under Title VIII of the Civil Rights Act of 1968 received by the County Office will be sent to the State Director. The State Director will forward the complaints to the Administrator, Attention: Equal Opportunity Officer.

(2) Complaints of discrimination against packagers, contractors or others with whom FmHA deals should be filed with the Department of Housing and Urban Development. However, these complaints may be accepted by FmHA employees and routed through the State Director to the Administrator, Attention: Equal Opportunity Officer.

(e) *Relations to other regulations.* Nothing in this section in any way interferes with the administration of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 or the "Equal Opportunity in Housing Certification," signed by all packagers.

§ 1901.204 Compliance reviews.

(a) *Recipients subject to reviews.* Recipients of the following kinds of loans and/or grants who received their loans or advances of funds on or after January 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Guaranteed loans are not covered by Title VI and, therefore, are not subject to compliance reviews.

(1) Farm Ownership loans to install or improve recreational facilities or other nonfarm enterprises.

(2) Operating loans to install or improve recreational facilities or other nonfarm enterprises.

(3) Economic Opportunity loans to individuals for nonagricultural enterprises.

(4) Individual Recreation loans.

(5) Loans for Water and Waste Disposal facilities, including Resource Conservation and Development loans for this purpose.

(6) Community Facility loans.

(7) Watershed loans and advances.

(8) Recreation Association loans including those made from Resource Conservation and Development funds.

(9) Economic Opportunity loans to incorporated cooperative associations (Compliance reviews on unincorporated Economic Opportunity cooperatives subject to Title VI will be conducted only as the need arises or as directed by either the State Director or the Administrator).

(10) Grazing Association loans, including Resource Conservation and Development loans for this purpose.

(11) Loans to Timber Development organizations.

(12) Rural Renewal loans and advances.

(13) Rural Rental Housing (formerly Senior Citizen rental) an Rural Cooperative Housing loans.

(14) Labor Housing loans and/or grants.

(15) Rural Housing Site loans.

(16) Business and Industrial Insured loans or grants.

(17) Technical Assistance grants.

(18) Development grants for water and waste disposal.

(b) *Duration of obligation for conducting reviews.* Compliance reviews will be conducted on recipients of loans and grants listed in paragraph (a) of this section:

(1) Until the loan is paid in full or otherwise satisfied; or

(2) Until the last advance of funds is made in the case of grants for Technical Assistance, or planning grants if no FmHA loan funds are involved; or

(3) In the case of development grants for water and waste disposal (no loan involved), for the period during which the real property or structures are used for a purpose for which the grant was extended or for another purpose involving the provisions of similar services or benefits.

(c) *Compliance reviews of loans and grants to individuals.* (1) *Compliance Review Officer.* The County Supervisor will conduct compliance reviews of loans made to individuals.

(2) *Type of review.* If the borrower is currently receiving loan supervision, the County Supervisor may complete the compliance review based on his knowledge of the borrower's operations from other visits. Otherwise the County Supervisor must visit the borrower's facilities. Before completing the compliance review, the County Supervisor should be aware of:

(i) The borrower's operating regulations, for example, the grounds for eviction from a Rural Rental Housing Project.

(ii) The borrower's method of advertising the facility to the public, if there is any advertising, including how well these methods reach the minority community.

(iii) Any records of request for use of the borrower's facility.

(3) *Recording results of review.* The County Supervisor's determination that the borrower is or is not in compliance with Title VI, together with information such as that outlined in paragraph (2) of this section, will be recorded in the running record. Review of individual Rural Rental Housing borrowers will be recorded on Form FmHA 400-8, "Compliance Review (Nondiscrimination by Recipients of Financial Assistance Through FmHA.)"

(4) *Reporting results of review.* If the borrower is in compliance, the County Supervisor will report his findings to the State Director. Exhibit A is a sample report. In the case of Rural Rental Housing borrowers, a copy of Form FmHA 400-8 will be filed in the borrower's County Office loan docket, and the original will be sent to the State Director. If the borrower is not in compliance, the borrower's name, location, type of loan involved, and the reasons for the finding of noncompliance will be sent to the State Director.

(5) *Forwarding report of noncompliance.* The State Director will see that all compliance review reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the compliance review report to the Administrator, Attention: Equal Opportunity Officer, with recommended action to take to bring the recipient into compliance.

(d) *Review of loans or grants to organizations* (any borrower or grantee other than an individual). (1) *Designation of Compliance Review Officer.* The State Director will designate the Compliance Review Officer for recipient organizations. County Supervisors may be designated only if they have received approved compliance review training. Otherwise, the Compliance Review Officer must be a member of the State staff.

(2) *Type of review.* Compliance reviews may be completed in connection with regular supervision visits to organizations and must include an inspection of the FmHA-financed facility. Before determining that the recipient is or is not complying with the provisions in Form FmHA 400-4, the Compliance Review Officer will:

(i) Observe the recipient's records, including records on the present membership by race, the handling of applications for use of the facility, the user rates and membership fees or dues, and the facility's operating regulations.

(ii) Determine if the recipient advertises for members or users. If so, observe the effectiveness of the recipient's methods of advertising the availability of the facility to the public, and especially the effectiveness of this advertising in reaching the minority community.

(iii) Interview organization officials, members, and employees. In reviews of

recipients of Technical Assistance grants, members of the self-help housing groups should be interviewed to determine the way in which they were recruited.

(iv) Interview informed local community leaders, including minority leaders, if any, to determine if the facility is operating without discrimination because of race, color, or national origin.

(3) *Recording results of reviews.* (i) *Association, Watershed, Resource Conservation and Development, and Rural Renewal loans involving recreation facilities.* Reviews will be recorded on Form FmHA 400-7, "Compliance Reviews for Recreational Loans to Associations (FmHA Borrowers)." If the organization is found in compliance with Title VI, the original of the form will be sent to the State Director, and a copy will be filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(ii) *Loans and/or grants for Water and Waste Disposal systems, incorporated Economic Opportunity cooperatives, Grazing associations, Rural Rental Housing, Labor Housing, and Rural Housing Sites.* Reviews will be completed on Form FmHA 400-8. The original of the form will be sent to the State Director and a copy filed in the borrower's County Office loan docket. If the organization is found in noncompliance, any additional information which led to the finding will be sent with the form.

(iii) *Timber Development organizations, Rural Cooperative Housing loans, and Technical Assistance grants.* The information obtained during the compliance review as well as the Compliance Review Officer's determination of the borrower's compliance or noncompliance will be recorded in the running record. If the organization is found in compliance, a report (see Exhibit A) will be sent to the State Director. If the organization is not in compliance, the organization's name, location, type of loan received, and all information which led to the finding will be sent to the State Director.

(4) *Mandatory hook-up ordinance.* Compliance reviews of public entity borrowers or grantees for water and waste disposal facilities who are operating under the provisions of a mandatory hook-up ordinance will consist of a certification by the borrower or grantee that the ordinance is still in effect and is being enforced.

(5) *Forwarding noncompliance report.* The State Director will see that the reports are complete. If the recipient was found in noncompliance, the State Director will immediately send a copy of the report to the Administrator, Attention: Equal Opportunity Officer, with action proposed to bring the recipient into compliance.

(e) *Timing of reviews.* (1) *Reporting year.* The State Director will schedule Civil Rights compliance reviews from November 1 to October 31 of each year. For example, compliance reviews scheduled during 1976 should be conducted

after November 1, 1975, but before October 31, 1976.

(2) *Initial reviews.* (i) *Water and Waste Disposal loan and/or grant.* The initial compliance review will be conducted before loan or grant closing or before the construction begins, whichever occurs first.

(ii) *Technical assistance grant.* The initial compliance review will be conducted before the grant is closed.

(iii) *Rural Housing Site loan.* The initial compliance review will be conducted at the beginning of the sale of the sites developed with the FmHA loan.

(iv) *Watershed loans for future water supply.* The initial compliance review will be made when usage of the stored water begins.

(v) *All other loans and/or grants.* The initial compliance review of loans and/or grants listed in paragraph (a) of this section will be conducted within the first reporting year after the loan or grant is closed or after Form FmHA 400-4 is signed.

(3) *Subsequent reviews.* The State Director is responsible for requiring subsequent compliance reviews at intervals not less 90 days, or more than 3 years, after the previous compliance review.

(i) For Water and Waste Disposal organizations with loans or development grants that have had at least two compliance reviews after loan or grant closing, covering a 6-year period, and where no discriminatory practices are indicated, the frequency of subsequent reviews may be reduced to 6 years.

(ii) If Water and Waste Disposal organizations have merged to form a new organization, two reviews will be conducted at 3-year intervals after the merger and one every 6 years thereafter, provided no discriminatory practices are noted.

(f) *State Office summary reports.* The State Director will keep a list of all compliance reviews conducted during the reporting year so as to schedule each year's reviews. The State Director will submit a copy of this list to the Administrator, Attention: Equal Opportunity Office, no later than November 30 of each year. Recipients found in noncompliance will also be listed on the summary report. Exhibit B is a sample report.

§ 1901.205 Nondiscrimination in construction financed with FmHA loan or grant.

Executive Order 11246 provides for equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by FmHA involving a construction contract or more than \$10,000.

(a) *Compliance.* This section applies to any FmHA loan or grant involving a construction contract or subcontract of more than \$10,000. Applicability will be determined on the estimated value of the construction contract, not on the amount of the loan. If construction work of over \$10,000 is partially financed by another Federal Agency, the County

Supervisor will try to reach an agreement as to which agency will administer the nondiscrimination requirements. If unable to reach an agreement, the County Supervisor will refer the case to the State Director.

(b) *Exemption.* Construction is exempt from this section when:

(1) Applicant's loan will not be used even partially to finance construction;

(2) The contract involved is \$10,000 or less;

(3) The contract or subcontract is with a State or local government (or any agency, instrumentality, or subdivision of such government) and such agency, instrumentality, or subdivision does not participate in work on or under the contract or subcontract; or

(4) Performed by borrower method and does not involve a subcontract of more than \$10,000.

(c) *Requirements of applicants, contractors, or subcontractors with contract over \$10,000.* (1) *Applicant.* The applicant will be required to execute Form FmHA 400-1, "Equal Opportunity Agreement," at the time the loan is closed or before construction is started, whichever occurs first. If the applicant is an incorporated association, a resolution of the governing body will have to authorize execution of the form. Municipalities or other public bodies will have to incorporate references to this form in the loan resolution before it is adopted.

(2) *Contractor or subcontractor.* The prospective contractor or subcontractor must:

(i) Submit Form FmHA 400-6, "Compliance Statement," to the County Supervisor before contract bid negotiations.

(ii) Include an Equal Opportunity Clause in any contract or subcontract subject to these regulations.

(3) *The County Supervisor will:*

(i) Verify that an Equal Opportunity Clause is included in each contract or subcontract. This clause is incorporated in Form FmHA 424-6, "Construction Contract."

(ii) Deliver to the contractor the following forms, as appropriate, when notifying him of contract award:

(A) Form FmHA 400-3, "Notice to Contractors and Applicants" with an attached Equal Employment Opportunity Poster. Posters in Spanish will be provided when appropriate.

(B) Form AD-425 b, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and 11375," for contractors subject to paragraph (e) of this section.

(d) *Contractor with 100 or more employees and contract over \$10,000.* (1) Each contractor or subcontractor will file the following with the Joint Reporting Committee, 1800 G Street, N.W., Washington, D.C. 20006:

(i) SF-100, "Employer Information Report EEO-1," within 30 days of the contract award unless the report has been submitted within the past 12 months.

(ii) An annual Report by March 31, so long as the contractor holds any FmHA-financed contract over \$10,000.

(2) Failure to file employer information and annual reports as required constitutes noncompliance with the Equal Opportunity Clause.

(e) *Contractor with at least 50 employees and contract of \$50,000 or more.* Each contractor or subcontractor must develop a written affirmative action compliance program for each project. This must be on file in each contractor's or subcontractor's personnel office within 120 days after the beginning of the contract. Form AD-425 provides guidelines for developing compliance programs.

(f) *Compliance during construction.* The County Supervisor will:

(1) Check to see that:

(i) Required posters are displayed.

(ii) Facilities are not segregated.

(iii) There is no evidence of discrimination in employment.

(2) Record findings on Form FmHA 424-12, "Inspection Report."

(3) Try, if there is any evidence of noncompliance, to achieve voluntary compliance, and, if unsuccessful, report all the facts to the State Director who will attempt to achieve compliance. If the attempt fails, the State Director will report all the facts to the National Office for further instructions.

(g) *Department Contracts Compliance Office.* This office may request special compliance reviews at any time.

(h) *Discrimination complaints.* (1) Complaints alleging discriminatory acts may be filed with either the County Supervisor or the State Director by any employee or applicant for employment with a contractor or subcontractor.

(2) Each complaint must be in writing and signed by the complainant. (The FmHA official receiving the complaint will assist complainant when necessary.) The complaint will include:

(i) Name, address, and telephone number of complainant.

(ii) Name and address of the person allegedly discriminating.

(iii) Date and place of the discrimination.

(iv) Description of the discrimination.

(v) Any other information that will assist in investigating and resolving the complaint.

(3) Complaints must be filed not later than 180 days after the alleged act unless the State Director extends the time, for good cause shown by the complainant.

(4) The receiving official will:

(i) Acknowledge receiving the complaint.

(ii) Attach to the complaint a memorandum stating:

(A) Whether the security instrument or other document signed by the borrower contains a nondiscrimination agreement, or

(B) The amount of the contract and whether the contractor has submitted the required forms, and

(C) Any other information about the complaint.

(iii) Forward the complaint to the Administrator, Attention: Equal Opportunity Officer.

(5) The County Supervisor or State Director should delay a comprehensive investigation until the National Office requests it.

(6) The National Office will:

(i) Determine if discrimination occurred.

(ii) Notify all parties if there was no discrimination.

(iii) Notify all parties if discrimination did occur and advise the violator to:

(A) Correct the violation.

(B) Assure future compliance.

(7) The Administrator will determine appropriate future action.

EXHIBIT A

Subject: Civil Rights Compliance Reviews.

To: State Director, FmHA.

Civil Rights compliance reviews have been conducted, and each recipient listed below was found in compliance with Title VI of the Civil Rights Act of 1964. Information which led to this finding and my determination that the recipient is in compliance are in the running record of the recipient's file.

Recipient	Case No.	Type of assistance ¹	Date of review
Sam H. Smith	93-05-7031	O.L. (rec.)	Jan. 3, 1975
John A. Jones	99-05-8784	R.L.	Feb. 17, 1975
Medina Housing Association	99-05-9176	T.A. grant	Mar. 5, 1975

County Supervisor

¹ Indicate only the loans or grants received which are subject to compliance reviews.

EXHIBIT B

Subject: Summary Report of Civil Rights Compliance Reviews.

To: Administrator, FmHA.

Attention: Equal Opportunity Officer.

I. Civil Rights Compliance Reviews have been conducted, and the following recipients were found in compliance with Title VI of the Civil Rights Act of 1964.

Loan type:	Loan number
1.	
2.	
3.	

II. The following recipients were found in noncompliance.

Name of borrower	Loan type	Loan No.	Date report of noncompliance sent to national office
1.			
2.			
3.			

State Director

Dated: April 27, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-12740 Filed 4-30-76;8:45 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

[Docket No. 76P-0092]

CANNED VEGETABLES

Canned Mushrooms; Proposals To Provide
for Acidification as a Processing Aid

The Food and Drug Administration (FDA) is issuing a proposal, based on a petition submitted by the Mushroom Processors Association (MPA), Box 147, Kennett Square, PA 19348, to amend § 51.990 (21 CFR 51.990), the standard of identity for canned vegetables other than those specifically regulated, to provide for the optional use of safe and suitable organic acids as aids in processing canned mushrooms where the inside of the container is fully enamel-lined. Comments may be submitted on or before July 2, 1976.

When the standard of identity for canned mushrooms was established in 1939, citric acid (an organic acid) was an optional ingredient in canned mushrooms. The standard was amended in the Federal Register of September 11, 1952 (17 FR 8176), at the request of a mushroom growers association, to delete citric acid as an optional ingredient of canned mushrooms on the basis that the addition of citric acid made the product appear to be of greater value than it actually was.

The MPA, a nationwide trade association with 18 members that account for over 60 percent of the United States' production of canned mushrooms, states that a different set of circumstances now apply regarding the use of an organic acid in canned mushrooms. During the period preceding the 1952 amendment, the MPA states, the cans used throughout much of the canning industry were produced from 1.25-pound hot dip tinplate, a packaging material that, because of increasing tin prices and tinplate technological improvements, has not been produced in the United States for many years. The MPA states that current plain tinplate can specifications usually call for unenameled differential electrolytic plate with a nominal interior tin coating weight equivalent to 0.5 pound per base box and that, when the contents of the containers react with such a thin coating of tin, there is a deterioration of the inner can surface. Furthermore, this reaction is initiated during the thermal processing, particularly in the head space area, and continues rapidly during storage. The intensity of the deterioration varies from light to moderate to heavy. The amount of deterioration is reflected by the increased darkness of the can's surface. This phenomenon, the MPA contends, causes consumers to question the integrity of the mushrooms and often to discard or return them.

Mushrooms canned in the absence of tinplate, i.e., in enamel-lined cans, without the addition of an organic acid such as citric acid, are darker than mush-

rooms canned in plain tinplate containers. The MPA argues that the addition of organic acid, e.g., citric acid, to mushrooms canned in enamel-lined containers would not make the product appear of greater value than it actually is. The MPA states that the product would be comparable to mushrooms currently canned in plain tinplate containers except that the inner surface of the container would not be discolored. Data submitted in support of the petition show that the addition of citric acid to mushrooms canned in enamel-lined containers results in a product with a color comparable to that of mushrooms packed in plain tinplate containers without the addition of an organic acid.

In meetings with FDA prior to the submission of its petition, the MPA stated that the quantity of acid that may be added is self-limiting. Reduction in pH below 5.0, the MPA stated, does increase the bleaching effect of the acid on the mushrooms; however, the flavor of the mushrooms is unpleasant at such pH levels and any defects, e.g., dark spots, become amplified. The MPA included with the petition the results of taste panel studies undertaken at the Department of Horticulture, Pennsylvania State University, which show that there is a detectable difference between the flavor of canned mushrooms acidified to a pH of 5.0 to 5.2 with citric acid and the flavor of non-acidified mushrooms without preparation (directly from the can). The difference between acidified and non-acidified mushrooms could even be detected when both were sautéed and in cream sauce. However, the panel was unable to distinguish between acidified and non-acidified mushrooms when both were used on pizzas.

At the meetings with FDA, the MPA stated that the flavor of mushrooms acidified with vinegar is unpleasant. Therefore, the MPA proposal provides, except for vinegars, which would still be prohibited, for the use of safe and suitable organic acids in the canning of mushrooms where the inside of the container is fully enamel-lined.

An additional benefit of acidification, MPA states, is a reduction in thermophilic flat sour and thermophilic anaerobic spoilage. The data submitted in support of the petition show that acidification with citric acid in conjunction with the normal commercial sterility process for mushrooms on file with FDA decreased thermophilic spoilage potential from 100 percent to an average of 6 percent. This type of spoilage, although not of health significance, the MPA states, can result when canned mushrooms are subjected to high temperatures during storage and distribution or are inadvertently under-cooled after thermal processing.

The Commissioner recognizes the problem associated with mushrooms packed in current commercially available plain tinplate cans. He is also aware of the fact that the color of mushrooms is indicative of the freshness of the product. Fresh mushrooms are light in color, but as they become stale, they darken

in color. The Commissioner further recognizes that mushrooms darken during processing, regardless of the type of container used, e.g., plain tinplate, glass or enamel-lined. However, when plain tinplate cans are used, the mushrooms regain their light color during storage. This color change is due to a chemical reaction between the product and the tin of the container. The Commissioner recognizes that plain tinplate cans suitable for the canning of mushrooms are often unavailable and that the data submitted in support of the petition show that an increase in acidity of the product to a pH of 5.0 to 5.2 will reduce the possibility of thermophilic spoilage. The Commissioner is convinced that permitting the use of acid, because it adversely affects flavor below a pH of 5.0, will not encourage canners to use this device to lighten stale mushrooms, making them appear fresh. The Commissioner, therefore, believes that the petitioner has demonstrated a need for safe and suitable organic acids where enamel-lined cans are used as an alternative to the conventional plain tinplate cans for the canning of mushrooms.

The Commissioner proposes that paragraph (c)(12) of § 51.990 be amended by deleting the superfluous statement of the definition of "safe and suitable" that reads: " * * * which either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or, if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act * * * ". The term "safe and suitable" is now adequately defined in § 10.1(d) (21 CFR 10.1(d)) for all purposes relevant to § 51.990.

The MPA contends that consumer reaction to the detinning problem has had a serious economic impact on the United States mushroom canning industry. It therefore requests that the usual 60-day comment period be shortened to 30 days. However, since the proposed amendment represents a significant change in the processing of mushrooms, and since the Commissioner wishes to solicit thoughtful comments from all who are interested in this matter, he has concluded that a 60-day comment period should be retained.

The Commissioner has considered the inflation impact of this proposed regulation and has found that the proposal, if adopted, would not cause a major inflation impact as defined in the Executive Order 11821, OMB Circular A-107, and guidelines issued April 1, 1975, by the Department of Health, Education, and Welfare. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The Commissioner also has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 6.1(d) (4) (21 CFR 6.1(d) (4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact

statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 51.990(c)(12) be revised to read as follows:

§ 51.990 Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients.

(c) * * *

(12) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section, and except canned mushrooms, in which no vinegar is permitted), in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article. Organic acid, other than ascorbic acid as provided for in paragraph (c)(7) of this section, shall be used in canning mushrooms only where the inside of the container is fully enamel-lined.

Interested persons may, on or before July 2, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 19, 1976.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc.76-12733 Filed 4-30-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76-GL-15]

GREENCASTLE, IND.

Designation of Transition Area

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Greencastle, Indiana.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before June 1, 1976 will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by

ministration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before June 1, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

An instrument approach procedure has been developed for the Putnam County Airport, Greencastle, Indiana. Controlled airspace is required to protect the procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (41 F.R. 440), the following transition area is added:

GREENCASTLE, INDIANA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Putnam County Airport (latitude 39°38'00" N., longitude 86°48'45" W.).

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

Issued in Des Plaines, Illinois, on April 13, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-12562 Filed 4-30-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-GL-16]

BRainerd, MINN.

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Brainerd, Minnesota.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018. All communications received on or before June 1, 1976 will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by

contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Brainerd-Crow Wing Airport, Brainerd, Minnesota. Controlled airspace has to be designated to protect this procedure. A review of all procedures and the required protective airspace was conducted.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (41 F.R. 355), the following control zone is amended to read:

BRainerd, MINNESOTA

Within a 5-mile radius of Brainerd-Crow Wing County Airport (latitude 46°23'52" N., longitude 94°08'12" W.); within 2½ miles each side of the 040° bearing from the Brainerd-Crow Wing County Airport extending from the 5-mile radius zone to 7 miles northeast of the airport; within 1½ miles each side of the 120° bearing from the airport extending from the 5-mile radius zone to 6 miles southeast of the airport; within 2½ miles each side of the 198° bearing from the airport extending from the 5-mile radius zone to 6 miles south of the airport; within 2½ miles each side of the 247° bearing from the airport extending from the 5-mile radius zone to 7 miles southwest of the airport; and within 1½ miles each side of the 302° bearing from the airport extending from the 5-mile radius zone to 6½ miles northwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (41 F.R. 355), the following transition area is amended to read:

BRainerd, MINNESOTA

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Brainerd-Crow Wing County Airport (latitude 46°23'52" N., longitude 94°08'12" W.); within 2½ miles each side of the 120° radial of the Brainerd, VORTAC extending from the 9-mile radius area to 7½ miles southeast of the VORTAC; and within 2½ miles each side of the Brainerd VORTAC 302° radial extending from the 9-mile radius area to 21 miles northwest of the VORTAC.

These amendments are proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois, on April 13, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-12563 Filed 4-30-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-NE-13]

**NORWALK, CONNECTICUT, 700-FOOT
TRANSITION AREA**

Proposed Establishment

The Federal Aviation Administration is considering amending Section 71.181 of Part 71 of the Federal Aviation Regulations so as to establish a 700-foot Transition Area at Norwalk, Connecticut.

The establishment of this transition area is proposed to provide controlled airspace protection for aircraft executing two new Instrument Approach Procedures (COPTER RNAVs 250 and 310 Original) being established to serve the Norden Heliport, Norwalk, Connecticut.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before June 2, 1976 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Norwalk, Connecticut, proposes the airspace action hereinafter set forth:

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to add the following 700-foot Transition Area:

**NORWALK, CONNECTICUT, 700-FOOT
TRANSITION AREA**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, (latitude 41°06'15" N., longitude 73°24'15" W.) of Norden Heliport, Norwalk, Connecticut; within a 9-mile radius of the center of the heliport, extending clockwise from a 220° bearing to a 358° bearing from the heliport; within a 7.5-mile radius of the center of the heliport extending clockwise from a 358° bearing to a 100° bearing from the heliport; within 2.5 miles each side of a 118° bearing from a point (latitude 41°06'43" N., longitude 73°23'28" W.); extending from said point to 5 miles southeast.

This amendment is proposed under Section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Burlington, Massachusetts, on April 19, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc. 76-12564 Filed 4-30-76; 8:45 am]

Federal Railroad Administration

[49 CFR Part 231]

[Docket No. SA-5, Notice No. 1]

**ROAD AND SWITCHING LOCOMOTIVES;
RAILROAD SAFETY APPLIANCE STANDARDS**

**Proposal To Amend Safety Appliance
Standards**

The Federal Railroad Administration (FRA) is considering amendment of Part 231, to prescribe Safety Appliance Standards for road locomotives (except steam) equipped with corner stairways and amend the Safety Appliance Standards for locomotives (except steam) used in switching service.

BACKGROUND INFORMATION

In the July 29, 1974 issue of the FEDERAL REGISTER (39 FR 27327), FRA prescribed Safety Appliance Standards for locomotives (except steam) used in switching service. These standards became effective September 1, 1974.

Subsequently, FRA received numerous complaints from railroads concerning difficulties they were encountering in attempting to comply with these standards, especially with respect to some models of locomotives already in service. These problems prompted the filing of petitions by the Association of American Railroads (AAR) and the Penn Central Transportation Company on November 21 and 27, 1974, respectively. These petitions requested modification of height requirements for switching steps prescribed in § 231.30(c)(2)(iv) and the requirement in § 231.30(e)(2)(ii) that vertical handholds on locomotives built before April 1, 1975 "begin at points equidistant from the safety tread surface * * *". FRA docketed both petitions as Rulemaking Petition No. 74-6.

In order to obtain a more complete understanding of the problems being experienced with these standards, FRA held several conferences with representatives of the United Transportation Union (UTU), Brotherhood of Locomotive Engineers (BLE), Association of American Railroads (AAR), American Short Line Railroad Association (ASLRA), Locomotive Builders and several railroads. Information obtained at these conferences proved to be of considerable assistance in the development of the amendments proposed in this notice.

DISCUSSION OF THE PROPOSED CHANGES

Section 231.29 would prescribe Safety Appliance Standards for road locomotives. It would require road locomotives

with corner stairway openings to be equipped with uncoupling mechanisms that can be operated safely from the bottom step of the stairway opening and ground level and with vertical handholds and horizontal end handholds prescribed in § 231.30 (e) and (g). It also provides that the uncoupling mechanism may not protrude into the stairway opening or end platform area when the mechanism is in its normal position or when it is operated. All road locomotives with corner stairway openings must meet these requirements within 36 months after the proposed regulation becomes effective.

Section 231.30 would revise the present Safety Appliance Standards for locomotives used in switching service. Paragraph (a) provides that, except for steam locomotives that must be equipped as provided in § 231.16, all locomotives used in switching service built later than 6 months after this amendment becomes effective must be equipped as prescribed in this section. This paragraph further provides that, except for steam locomotives that must be equipped as provided in § 231.16, previously built locomotives may not be used in switching service later than 36 months after this amendment becomes effective unless they are also equipped as prescribed in this section. Each carrier is required to so equip 40 percent of its previously built locomotives within 12 months, 70 percent within 24 months and all of them within 36 months after this amendment becomes effective. Finally, paragraph (a) provides that locomotives without corner stairways may not be used in freight switching service later than 36 months after this amendment becomes effective.

No changes are proposed in the definitions contained in paragraph (b) of existing § 231.30.

Paragraph (c) would change some of the requirements for switching steps. Locomotives built later than 6 months after the effective date of this regulation would be required to have switching steps that are at least 24 inches wide and 12 inches deep. However, when necessary to accommodate the turning arc of a six-wheel truck, the minimum width for the inside edge of the switching step would be 17 inches. On previously built locomotives, the minimum width and depth of switching steps would not be changed but the present requirement that each switching step have a minimum area of 180 square inches would be deleted.

On all locomotives regardless of their built-date, each switching step would be required to have a backstop that extends at least 6 inches above the safety tread of the switching step. This backstop may be solid or perforated. The safety tread of each switching step must be not more than 19 inches above top of rail and preferably 15 inches. On locomotives that operate on track where a third rail is used to deliver propulsion current, switching steps are now required to have a height of between 19 and 22 inches; this provision would be deleted because the proposed 19-inch maximum provides sufficient vertical clearance and because of the safety advantages inherent in a

more uniform placement of safety appliances.

The vertical clearance of switching steps on locomotives built later than 6 months after the effective date of this amendment must be clear and unobstructed for at least 84 inches above a portion of each switching step that is at least 7 inches deep and 24 inches wide; on previously built locomotives, the same vertical clearance must be provided above a portion of each switching step that is at least 7 inches deep and 18 inches wide.

A new subparagraph (6) would be added to paragraph (c) of this section. It would require that the outer edge of each non-illuminated switching step be painted a contrasting color. On locomotives built later than 6 months after the effective date of this amendment, switching steps must also be illuminated. However, only the front switching steps of the leading unit and the rear switching steps of the trailing unit of multiple-unit locomotive consists must be illuminated.

Paragraph (d) would be amended to provide that locomotives built before April 1, 1975 (except steam locomotives) may not be equipped with end footboards or pilot steps 24 months after this regulation becomes effective. The present requirement is that these locomotives may not be so equipped after December 31, 1977. In addition, a provision would be added to this paragraph (d) that whenever end footboards or pilot steps are removed from a locomotive, the uncoupling mechanism and horizontal end handholds must also be modified to comply with paragraph (f) and (g) of this section.

Paragraph (e) would be amended to provide that on locomotives built later than 6 months after this amendment becomes effective, all vertical handholds must begin at least 6 inches and not more than 32 inches above the safety tread surface of the switching step, extend upward a distance of at least 48 inches, provide at least 2½ inches of usable hand clearance throughout their entire length, and be painted in a contrasting color to a height of at least 48 inches above the safety tread surface. However, on locomotive units equipped with high snowplows, vertical handholds must begin not more than 36 inches above the safety tread surface.

On previously built locomotives, vertical handholds would differ from those described in the previous paragraph in that they would be required to begin at least 5 inches and not more than 32 inches above the safety tread surface of the switching step. However, the present requirement that vertical handholds be constructed of material that is at least ⅝ inch in diameter would not be changed.

No changes are proposed in paragraph (f) of this section.

Paragraph (g) would be amended to provide that each horizontal end handhold must be located at least 30 inches and not more than 50 inches above the top of rail with its outer end not more

than 16 inches from the side of the locomotive. However, on units with a high snowplow that makes normal end handhold location inaccessible, the end handhold must be located on top of the plow blade, with the center of the handhold not more than 53 inches above top of rail, and be in line with the slope of the plow blade. Each handhold must provide at least 2 inches preferably 2½ inches, usable hand clearance throughout its entire length.

FRA may grant waivers in instances where modification of a locomotive to comply with one or more of these requirements is impractical. Each petition requesting a waiver must be filed in the manner and contain the information required by § 211.41 of the FRA Rulemaking and Related Procedures (49 CFR 211.41).

WRITTEN COMMENTS INVITED; HEARING SCHEDULED

Interested persons are invited to participate in the development of these rules by submitting written data, views, or comments. Communications should identify the regulatory docket number, and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before June 15, 1976, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. The proposals contained in this notice may be changed in light of the comments received.

In addition, the FRA will conduct a public hearing at 10 a.m., June 15, 1976, in Room 4234, 400 Seventh Street, SW, Washington, D.C.

The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 before June 11, 1976, stating the amount of time required for his initial statement.

This notice is issued under the authority of the Safety Appliance Acts (Secs. 2,

4 and 6, 27 Stat. 531, as amended, secs. 1 and 3, 32 Stat. 943, as amended, secs. 1-6, 36 Stat. 298-299, as amended, sec. 6 (e) and (f), 80 Stat. 939; 45 U.S.C. 2, 4, 6, 8, 10, 11-16, 49 U.S.C. 1655).

In consideration of the foregoing it is proposed to amend Part 231 as follows:

1. By adding to the Table of Contents for Part 231 "§ 231.29 Road Locomotives with Corner Stairways".

2. By adding a new § 231.29 that reads as follows:

§ 231.29 Road Locomotives with Corner Stairways.

After (36 months after effective date), road locomotives with corner stairway openings must be equipped with uncoupling mechanisms that can be operated in safety from the bottom stairway opening step and ground level and equipped with the vertical handholds and horizontal end handholds prescribed in § 231.30 (e) and (g). No part of the uncoupling mechanism may extend into the stairway opening or end platform area when the mechanism is in its normal position or when it is operated. Each carrier shall so equip forty percent (40%) of its locomotives by (12 months after effective date), seventy percent (70%) by (24 months after effective date) and all its locomotives by (36 months after effective date).

3. By revising § 231.30 to read as follows:

§ 231.30 Locomotives Used in Switching Service.

(a) *General Requirements.* (1) Except for steam locomotives equipped as provided in § 231.16 of this part, all locomotives used in switching service built after (6 months after effective date), must be equipped as provided in this section.

(2) Except for steam locomotives equipped as prescribed in § 231.16 of this part, all locomotives built prior to (6 months after effective date) used in switching service after (36 months after effective date) shall be equipped as provided in this section. Each carrier shall so equip forty percent (40%) of its locomotives by (12 months after effective date), seventy percent (70%) by (24 months after effective date) and all of its locomotives by (36 months after effective date). Locomotives without corner stairway openings may not be used in freight switching service after (36 months after effective date).

(b) *Definitions.* (1) "Locomotives used in Switching Service" means a locomotive regularly assigned to perform switching service.

(2) "Switching Service" means the classification of cars according to commodity or destination; assembling of cars for train movements; changing the position of cars for purposes of loading, unloading, or weighing; placing of locomotives and cars for repair or storage; or moving of rail equipment in connection with work service that does not constitute a road movement. However, this term does not include movement of

a train or part of a train within yard limits by the road locomotive and the placement of locomotives or cars in a train or their removal from a train by the road locomotive while en route to the train's destination.

(3) "Safety tread surface" means that portion of anti-skid surface of a switching step that actually contacts shoe or boot.

(4) "Uncoupling mechanism means the arrangement for operating the coupler lock lift, including the uncoupling lever and all other appurtenances that facilitate operation of the coupler.

(c) *Switching Step.* (1) Number. Each locomotive used in switching service must have four (4) switching steps.

(2) Dimensions. Each switching step must have—

(i) On locomotives built after (6 months from effective date of regulation) a minimum width of twenty-four (24) inches, and a minimum depth of twelve (12) inches. However, when necessary to accommodate the turning of a six-wheel truck and its appurtenances, the inside edge of the switching step shall have a minimum width of seventeen (17) inches.

(ii) On locomotives built prior to (6 months after effective date) a minimum width of eighteen (18) inches, and a minimum depth of eight (8) inches;

(iii) A backstop, solid or perforated, with minimum height of backstop of six (6) inches above the safety tread surface.

(iv) A height of not more than nineteen (19) inches, preferably fifteen (15) inches, measured from top of rail to the safety tread surface.

(3) Location. Switching steps must be located on each side near each end of locomotives used in switching service. The bottom step of the stairway at these locations may also serve as a switching step if it meets all the requirements of this section.

(4) Manner of Application.

(i) Switching steps must be supported by a bracket at each end and fastened to the bracket by two bolts or rivets of at least one-half (1/2) inch diameter or by a weldment of at least twice the strength of a bolted attachment.

(ii) Vertical clearance must be unobstructed and free for use for at least a distance of eighty-four (84) inches over a portion of the switching step that is not less than seven (7) inches deep by eighteen (18) inches wide on locomotives built prior to (6 months after effective date) and of not less than seven (7) inches deep by twenty-four (24) inches wide on locomotives built after (6 months after effective date of regulation).

(5) Material. (i) Steel or other material of equivalent or better strength and deflection characteristics, anti-skid, safety design, having at least fifty percent (50%) of the tread surface as open space.

(ii) When the step material creates a second level safety tread surface, the

maximum difference in surface levels may not exceed three-eighths (3/8) of an inch.

(iii) The safety tread surface must extend to within one-half (1/2) inch of each edge of the step.

(6) Visibility. The outer edge of each switching step that is not illuminated must be painted a contrasting color. On locomotives built after (6 months after effective date), switching steps shall be illuminated; on multiple-unit locomotive consists used in switching service, only the front switching steps of the leading unit and the rear switching steps of the trailing unit must be illuminated.

(d) *End footboards and pilot steps.* (1) Except for steam locomotives equipped as provided in § 231.16, locomotives used in switching service built after March 31, 1975, may not be equipped with end footboards or pilot steps.

(2) Except for steam locomotives equipped as provided in § 231.16, locomotives used in switching service built before April 1, 1975 after (24 months after effective date), may not be equipped with end footboards or pilot steps. Whenever end footboards or pilot steps are removed from a locomotive, the uncoupling mechanism and horizontal end handholds of the locomotive must be modified to comply with paragraphs (f) and (g) of this section.

(e) *Vertical handholds.* Each switching step must be provided with two (2) vertical handholds or handrails, one on each side of the switching step stairway. (1) On locomotives built after (6 months after effective date), each vertical handhold must—

(i) Be constructed of wrought iron, steel or other material of equivalent strength and durability that is at least one (1) inch in diameter and be securely fastened to the locomotive with one-half (1/2) inch or larger bolts or rivets;

(ii) Begin not less than six (6) inches nor more than thirty-two (32) inches above the safety tread surface of the switching step; on units with high snowplows, each must begin not more than thirty-six (36) inches above the safety tread surface of the switching step;

(iii) Extend upward from switching step surface at least forty-eight (48) inches;

(iv) Be painted in a contrasting color to a height of at least forty-eight (48) inches above the safety tread surface of the switching step; and

(v) Provide at least two and one-half (2 1/2) inches of usable hand clearance throughout its entire length.

(2) On locomotives built before (six months after effective date) each vertical handhold must—

(i) Be constructed of wrought iron, steel or other material of equivalent strength and durability that is at least seven-eighths (7/8) inch in diameter and be securely fastened with one-half (1/2) inch or larger bolts or rivets;

(ii) Begin not less than five (5) inches nor more than thirty-two (32) inches above the safety tread surface; on units with high snowplows, each must begin not more than thirty-six (36) inches above the safety tread surface;

(iii) Extend upward from safety tread surface of the switching step at least forty-eight (48) inches;

(iv) Be painted in a contrasting color to a height of at least forty-eight (48) inches above the safety tread surface of the switching step; and

(v) Provide at least two and one-half (2 1/2) inches usable hand clearance throughout its entire length.

(f) *Uncoupling mechanisms.* Each locomotive used in switching service must have means for operating the uncoupling mechanism in safety from switching step and ground level. No part of the uncoupling mechanism may extend into the switching step or stairway opening or end platform area when the mechanism is in its normal position or when it is operated.

(g) *Horizontal end handholds.* Each locomotive used in switching service must have four (4) horizontal end handholds.

(1) Each horizontal end handhold must—

(i) Be constructed of wrought iron, steel or other material of equivalent strength and durability that is at least five-eighths (5/8) inch in diameter and be securely fastened to the locomotive with one-half (1/2) inch or larger bolts or rivets;

(ii) Be located not less than thirty (30) inches nor more than fifty (50) inches above the top of rail with its outer end not more than 16 inches from the side of the locomotive; on units with a high snowplow that makes normal end handhold location inaccessible, end handhold shall be located on top of plow blade, with the center of the handhold not more than fifty-three (53) inches above the top of rail, and be in line with the slope of the plow blade;

(iii) Be at least fourteen (14) inches long; and

(iv) Provide at least two (2) inches, preferably two and one-half (2 1/2) inches, usable hand clearance throughout its entire length.

(2) An uncoupling lever may also serve as a horizontal end handhold if it complies with the requirements of this paragraph. When an uncoupling lever also serves as the horizontal end handhold, it is considered to be securely fastened if its securement brackets are attached to the locomotive by one-half (1/2) inch or larger bolts or rivets and its movement between those brackets is limited to the rotation necessary for performance of the uncoupling function.

Issued in Washington, D.C. on April 26, 1976.

ASAPH H. HALL,
Administrator.

[FR Doc.76-12714 Filed 4-30-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Caution Signs, Labels, Signals, and Controls

The Nuclear Regulatory Commission has completed a study of large irradiators to determine what additional control measures should be imposed to reduce the likelihood of personnel exposure to life-threatening radiation doses delivered in short periods of time. This study was undertaken after the occurrence of a serious overexposure to a high-level radiation source at a licensee's irradiator.

The following proposed amendment of 10 CFR Part 20 would provide such control measures by adding a new § 20.203 (c) (6) which would:

a. require entry controls that function automatically to prevent individuals from inadvertently entering certain areas where potentially life-threatening radiation levels exist and that cause the radiation levels to be reduced to a much safer level before anyone could enter the area deliberately;

b. require appropriate alarm signals, and additional control devices to reduce the radiation from such large sources to the safer level, if the entry controls should fail or if physical radiation barriers should fail (e.g., loss of shielding liquid from a viewing port);

c. require use of administrative controls and devices to assure that the area is clear of personnel before such a large radiation source is used.

d. require the testing of control devices prior to operation of certain sources of potentially life-threatening radiation.

The amendment would apply to licensees who use radiation sources capable of producing 500 rems in one hour at one meter (i.e., sources greater than about 400 curies of cobalt-60, 1500 curies of cesium-137, 900 curies of iridium-192 or the equivalent) for the radiation therefrom. The amendment would not apply to such sources when they are contained in completely self-shielded devices and cannot in normal use create high radiation levels in areas which might be accessible to people. Protection against radiation from other large sources in which the radiation is incidental to some other use (e.g., nuclear power reactor cores) is generally provided through appropriate design features and license conditions. The amendment also would not apply to medical teletherapy licensees. Teletherapy devices produce well-collimated, narrow radiation beams which are used in physical configurations, and in accordance with appropriate licensing requirements to ensure the safety of operating personnel that make it unlikely that any individual would receive a life-threatening radiation dose in a short period of time.

All present licensees not in compli-

ance with the proposed amendment would be allowed three months after the effective date thereof to file with the Commission information describing methods of achieving compliance with the new rule. Licensees filing such information would be deemed to be in compliance with the new rule until nine months after the effective date thereof.

The Commission recognizes that it might be impracticable to apply certain provisions of the proposed amendment to a few large irradiator sources. Licensees are invited to comment both on alternative safety measures that would provide an equivalent degree of personnel protection in the use of such sources and on the time needed for taking action to achieve compliance with the regulation.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that the adoption of the following amendment to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by June 17, 1976. Copies of the comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

A new paragraph (c) (6) is added to § 20.203 to read as follows:

§ 20.203 Caution signs, labels, signals, and controls.

(c) High radiation areas.

(6) Each area other than an area used for teletherapy, in which there may exist radiation levels in excess of 500 rems in one hour at one meter from a source used for the radiation therefrom shall:

(i) have each entrance or access point equipped with entry control devices which shall function automatically to prevent any individual from inadvertently entering the area when such radiation levels exist and which would permit deliberate entry into the area only after a control device is actuated that shall cause the radiation level to

¹ These requirements apply to all licensees after (effective date of amendment). Each person licensed to conduct activities to which this paragraph (c) (6) applies and who is not in compliance with the provisions of this paragraph on (effective date of amendment) shall file on or before (3 months after effective date of amendment) information describing in detail the actions taken or to be taken to achieve compliance with this paragraph by (9 months after effective date of amendment), and shall be considered to be in compliance with this paragraph until (9 months after effective date of amendment).

be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour. A signal shall be automatically provided to the operator that shall correctly indicate when each entry control device is properly functioning to prevent entry. The entry control devices required by this paragraph (c) (6) shall be established in such a way that no individual will be prevented from leaving the area.

(ii) be equipped with additional control devices such that upon any failure of the entry control devices required by paragraph (c) (6) (i) of this section the radiation level within the area shall be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour; and visible and audible alarm signals shall be generated to make an individual attempting to enter the area aware of the hazard and the licensee or at least one other individual, who is familiar with the activity and prepared to render and summon assistance, aware of such failure of any control device.

(iii) be equipped with control devices such that upon failure or removal of physical radiation barriers the radiation level from the source shall be reduced below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour; and visible and audible alarm signals shall be generated to make potentially affected individuals aware of the hazard and the licensee or at least one other individual, who is familiar with the activity and prepared to render and summon assistance, aware of the failure or removal of the physical barrier.

(iv) be equipped with automatically actuated devices that will generate visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device which shall be installed in the area and which can prevent the source from being put into operation.

(v) be controlled by use of such administrative procedures and such devices as are necessary to assure that the area is cleared of personnel prior to each use of the source preceding which use it might have been possible for any individual to have entered the area.

(vi) be checked by a physical radiation measurement to assure that prior to the first individual's entry into the area after any use of the source, the radiation level in the area is below that at which it would be possible for an individual to receive a dose in excess of 100 mrem in one hour.

(vii) have entry control devices required in this paragraph (c) (6) which have been tested for proper functioning prior to initial operations on any day on which operations are conducted with such source of radiation, and for which records are kept of the dates, times, and results of such tests of function. No op-

erations other than those necessary to place the source in safe condition or to effect repairs on controls shall be conducted with such source unless control devices are functioning properly.

• • • • •
(Sec. 161, Pub. Law 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. Law 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Washington, D.C. this 29th day of April, 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-12912 Filed 4-30-76;8:45 am]

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dice to plaintiff and defendants in this or any other proceeding.

Dated: April 1, 1976.

For the plaintiff

THOMAS E. KAUPER,
Assistant Attorney General.
BADDIA J. RASHID,
CHARLES F. B. McALEER,
MATTHEW E. JAFFEE,
JOHN A. WEEDON,
FRANK B. MOORE,

Attorneys, Department of Justice.

For the defendants

ROBERT V. ABENDROTH,
Attorney for The C. Reiss
Coal Company.
DAVID E. BECKWITH,
Attorney for Great Lakes Coal
and Dock Company.
WALTER A. BATES,
Attorney for Pickands Mather
and Company.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

[Civil Action No. 72-C-210, Judge John
W. Reynolds, Filed: April 1, 1976]

United States of America, plaintiff v.
The C. Reiss Coal Company; Great Lakes
Coal & Dock Company; and Pickands
Mather & Co., defendants.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 11, 1972; defendants having appeared by their respective counsel; and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and before the taking of any testimony, and without admission by any party with respect to any such issue;

Now, therefore, without trial or adjudication of any issue of fact or law, and upon consent of the parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

This court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. § 1, commonly known as the Sherman Act.

II

As used in this Final Judgment:

(a) "Person" shall mean any individual, partnership, firm, association, corporation or other business or legal entity;

(b) "Dock coal" means either (1) coal unloaded on the dock coal company's own docks for storage and later shipment to the customer by rail or truck, or (2) coal unloaded at the customer's own docks.

III

The provisions of this Final Judgment applicable to defendants shall also apply to each of their officers, directors, agents,

employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained, individually and collectively, from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, directly or indirectly, any rights under any contract, agreement, understanding, plan or program, with any person, to:

(a) Fix, raise, maintain or stabilize prices, discounts or other terms or conditions for the sale of dock coal to retail, commercial, industrial, municipal, county, state and federal customers;

(b) Allocate customers, territories or markets for the sale of dock coal;

(c) Rig bids on sales of dock coal made to retail, commercial, industrial, municipal, county, state, and federal customers;

(d) Communicate to or exchange with any other person selling dock coal any information concerning prices at or upon which dock coal is to be sold to any third person prior to the communication of such information to the public or trade generally.

V

Each defendant is enjoined and restrained, individually and collectively, from directly or indirectly:

(a) urging, attempting to influence or suggesting to any other dock coal company the prices or other terms or conditions of sale for dock coal to any third person, and

(b) advising or informing any other defendant of the identity of any of its customers for dock coal.

VI

Nothing herein shall be construed to enjoin or restrain any defendant from:

(a) conducting bona fide arm's length purchase or sale negotiations with any supplier or customer of dock coal nor from communicating or exchanging information concerning prices in connection with such negotiations, or

(b) acting as a bona fide agent or broker for any producer or processor of dock coal nor from communicating or exchanging information concerning prices, customers, markets or territories as a necessary part of such relationship.

VII

Within sixty (60) days of the entry of this Final Judgment, each defendant is ordered and directed, individually and independently, with respect to dock coal:

(a) To review, determine and establish its prices and other terms and conditions of sale of such coal on the basis of its independent judgment; provided, however, that compliance with the provisions of this Paragraph VII(a) and Paragraph VII(b) shall not be required if within such sixty (60) day period an affidavit signed by the officer or officers

responsible for the determination of such prices, terms and conditions is filed with this Court (with a copy to the Assistant Attorney General in charge of the Antitrust Division) stating that such defendant, prior to the effective date of this Final Judgment and subsequent to April 11, 1972, reviewed, determined and announced the prices, discounts, or terms and conditions of sale of such coal in accordance with the requirements of this paragraph.

(b) To withdraw its then current price lists for such coal, if any, and adopt and publish price lists, if any are used, arrived at pursuant to subparagraph (a) above.

VIII

Each defendant is ordered and directed, for a period of five (5) years from and after the date of entry of this Final Judgment, to furnish simultaneously with each bid or quotation required to be sealed which is submitted by it for the sale of dock coal to municipal, county, state and federal institutions, a certificate in substantially the form set forth in the Appendix hereto, by an official of such defendant having knowledge as to, and responsibility for, the determination of the price or prices bid or quoted, that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan or program between such defendant and any other person selling dock coal; provided, however, that such an affidavit would not be untrue because the defendant has negotiated for, entered into, or carried out a bona fide purchase or sale transaction with any other person, with respect to said bid or quotation, whereby the defendant would purchase dock coal from, or supply dock coal to, such person, or whereby the defendant would submit a joint bid or quotation with such person.

IX

Each defendant shall require as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in any dock coal business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

X

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is ordered and directed to file with the plaintiff at its Cleveland office (unless otherwise directed) on each anniversary date of such entry, a report setting forth the steps it has taken during the prior year to advise its appropriate officers, directors and employees of its and their obligations under this Final Judgment.

XI

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on writ-

ten request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to each or any of the defendants, made to their respective principal offices, be permitted, subject to any legally recognized privilege:

(a) Access, during regular office hours of each or any of such defendants, to all books, records, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of each or any of such defendants, relating to any matters contained in this Final Judgment.

(b) Subject to the reasonable convenience of each or any of the defendants, and without restraint or interference from such defendants, to interview their officers or employees, who may have counsel present, regarding any matters contained in this Final Judgment.

Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to their respective principal offices, defendants shall submit such additional reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted in this Paragraph XI shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XII

Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction of or the carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance therewith and for the punishment for violations thereof.

XIII

Entry of the Final Judgment is in the public interest.

Dated: _____

Chief Judge, United States District Court for the Eastern District of Wisconsin.

CERTIFICATION

The undersigned hereby certifies that, to his best knowledge and belief, the annexed bid has not been prepared in collusion with any other dock coal company and that the prices, discounts, terms and conditions thereof have not been communicated by or on behalf of the bidder to any such person other than the recipient of such bid and will not be communicated to any such person prior to the official opening of said bid. This certifica-

tion may be treated for all purposes as if it were a sworn statement made under oath, and is made subject to the provisions of 18 U.S.C. 1001 relating to the making of false statements.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

[Civil Action No. 72-C-210, Judge John W. Reynolds, Filed: April 1, 1976]

United States of America, Plaintiff, v. The C. Reiss Coal Company, Great Lakes Coal & Dock Company, and Pickands Mather & Co., defendants.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. § 16(b)-(h)), the United States of America hereby submits this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On April 11, 1972, the United States filed a civil complaint under Section 4 of the Sherman Act (15 U.S.C. § 4), alleging that defendants The C. Reiss Coal Company, Great Lakes Coal & Dock Company, and Pickands Mather & Co., violated Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleged that defendants and various co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were (a) to fix, raise and maintain the price of dock coal sold to retail, commercial and industrial customers in the Minnesota market; (b) to allocate customers in the Minnesota market among themselves; and (c) to rig bids on sales of dock coal made to municipal, county, state and federal institutions in the Minnesota market.

Entry by the Court of the proposed Consent Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify or enforce the Judgment, or to punish alleged violations of any of the provisions of the Judgment.

II. DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendants and co-conspirators were engaged in the sale of dock coal to retail, commercial, industrial, governmental, and other institutional customers located in the State of Minnesota, the western portion of the State of Wisconsin and the eastern portions of the States of North and South Dakota.

Dock coal is coal unloaded on the dock coal company's own docks for storage and later shipment to the customers by rail or truck, or coal unloaded at the customers' own docks. The defendant and co-conspirator dock coal companies purchased dock coal for resale.

In addition to the three corporate defendants, Youghiogheny & Ohio Coal Company was also named as a partici-

pant in the conspiracy as a co-conspirator.

The complaint alleged that the defendants and co-conspirators engaged in a conspiracy to fix prices, allocate customers and rig bids. The conspiracy, which began prior to 1965, involved meeting, discussions and agreements among officials of defendant companies and co-conspirators concerning prices, the allocation of various governmental, institutional and industrial customers, and the rigging of bids to various governmental and institutional customers.

According to the complaint, the alleged conspiracy had the following effects: (a) price competition in the sale of dock coal was restrained and eliminated; (b) dock coal prices were raised and stabilized at artificial and noncompetitive levels; and (c) purchasers were deprived of the benefits of free and open competition in the sale of dock coal and of the opportunity of buying dock coal at competitive prices.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have agreed, in a Stipulation, that the Consent Judgment may be entered by the Court at any time after compliance with the *Antitrust Procedures and Penalties Act*. The Stipulation also provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. § 16(e)) entry of said Judgment by the Court is conditioned upon its determination that the proposed Judgment is in the public interest.

A. Prohibited Conduct

The proposed Consent Judgment will prohibit the defendants from entering into any agreement to fix or maintain prices, discounts, or other terms or conditions for the sale of dock coal. Also prohibited are any agreement or understanding to allocate customers, territories or markets for dock coal, and any agreement to rig bids on dock coal sales to retail, commercial, industrial, municipal, county, state and federal customers.

The Consent Judgment will further eliminate the discussion of prices among the defendants or with other dock coal competitors prior to the information being known to the public or trade, except in *bona fide* purchase and sale transactions and agency-broker relations.

B. Scope of the Proposed Judgment

The Consent Judgment applies not only to the defendant corporations but also to their directors, officers, employees and agents, as well as to any successors or assigns of the defendant corporations. It also applies to anyone participating with the defendants who receive actual notice of the Judgment.

The Judgment is geographically applicable to the entire United States. In duration, the Judgment perpetually restrains the prohibited conduct; i.e. unless the Court either modifies or vacates all or

part of the Judgment, the defendants are forever bound by its prohibitions.

C. Effect of the Proposed Judgment on Competition

The proposed Judgment will require the defendants to arrive at their respective dock coal prices independently of each other, if not already done, and will reopen competitive bidding and competitive pricing in general in sales to private as well as public purchasers. The Judgment will also reopen, to all purchasers, sources of supply for dock coal, freed from agreements allocating customers' business to certain dock coal companies.

Where sealed bids are requested, the defendants are required, for the next five years, to submit with every sealed bid certification by a responsible official that the amount of the bid was not arrived at collusively.

The Judgment also requires each defendant to submit annual reports, for the next ten years, outlining the steps it has taken to comply with the provisions of the decree. The Government is also given access, upon reasonable notice, to the records and employees of the defendants to monitor their compliance with the provisions of the Judgment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Had the Government successfully litigated this lawsuit, the Judgment could have been used as *prima facie* evidence by a potential private litigant. Entry of the proposed Consent Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this Consent Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against these defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the *Antitrust Procedures and Penalties Act*, any person believing that the proposed Judgment should be modified may submit written comments to John A. Weedon, Chief, Great Lakes Field Office, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Consent Judgment at any time prior to its entry.

VI. ALTERNATIVE TO THE PROPOSED CONSENT JUDGMENT

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the proposed Consent Decree. The United States considered one alternative to the proposed Judgment. That alternative was a proposed decree which would have enjoined the defendants regarding all types of coal, not just dock coal. However, because the complaint charged a conspiracy limited to dock coal, and because the proposed Final Judgment completely enjoins the continuation of the alleged conspiracy in dock coal, the Antitrust Division considered the substantive language in the Judgment to be of sufficient scope and effectiveness to make litigation on further relief inappropriate. The Government does not believe that it could secure any additional relief if it prevailed at trial. Therefore, the alternative to the proposed Judgment, namely proceeding to trial, was not considered to be in the public interest in terms of cost, risk, and possible additional relief. Further, should the defendants in this case engage in illegal conspiratorial activity in the future in products not subject to this judgment, they will remain liable to prosecution under the Sherman Act itself rather than this Final Judgment. Conviction of violations under the Sherman Act now or in the future would subject the defendants to the substantially higher felony penalties.

VII. OTHER MATERIALS

There are no materials or documents which were determinative in formulating the proposal or Consent Judgment; consequently, none are being filed by the Plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)).

JOHN A. WEEDON,
FRANK B. MOORE,
Attorneys, Department of Justice.

[FR Doc. 76-12716 Filed 4-30-76; 8:45 am]

UNITED STATES V. GREAT LAKES COAL & DOCK COMPANY; HOMETOWN, INC.; AND YOUGHIOGHENY & OHIO COAL COMPANY

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Eastern District of Wisconsin in Civil Action No. 72-C-211, the *United States of America v. Great Lakes Coal & Dock Company; Hometown, Inc.; and Youghiogheny & Ohio Coal Company*. The complaint in this case alleged

that the named corporate defendants and coconspirators engaged in a conspiracy to fix prices, allocate customers and rig bids for the sale of dock coal in the Milwaukee market.

The proposed judgment prohibits the defendant corporations from entering into or adhering to any agreements or arrangements to fix prices for the sale of dock coal. Also prohibited is any agreement or understanding to allocate customers or rig bids to retail, commercial, industrial or governmental customers.

Public comments are invited on or before July 2, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to John A. Weedon, Chief, Great Lakes Field Office, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

Dated: April 26, 1976.

WILLIAM E. SPOWE,
Deputy Director of Operations,
Antitrust Division.

John A. Weedon, Frank B. Moore, Department of Justice, Antitrust Division, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, Attorneys for the United States of America.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

[Civil Action No. 72-C-211, Filed:
April 1, 1976]

United States of America, plaintiff, vs. Great Lakes Coal & Dock Company; Hometown, Inc.; and Youghiogheny & Ohio Coal Company, defendants.

STIPULATION

It is stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Great Lakes Coal & Dock Company, Hometown, Inc. and Youghiogheny & Ohio Coal Company, by their respective attorneys, that:

1. The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16] and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without pre-

judice to plaintiff and defendants in this or any other proceeding.

Dated: April 1, 1976.

For the plaintiff

THOMAS E. KAUPER,
Assistant Attorney General.
BADDIA J. RASHID,
CHARLES F. B. McALEER,
MATTHEW E. JAFFE,
JOHN A. WEEDON,
FRANK B. MOORE,

Attorneys, Department of Justice.

For the defendants

DAVID E. BECKWITH,
Attorney for Great Lakes Coal
and Dock Company.
STEVEN E. KEANE,
Attorney for Hometown, Inc.
GARY L. BRYENTON,
Attorney for Youghiogheny and
Ohio Coal Company.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

[Civil Action No. 72-C-211, Judge John
W. Reynolds, Filed: April 1, 1976]

United States of America, plaintiff, v.
Great Lakes Coal & Dock Company;
Hometown, Inc.; and Youghiogheny &
Ohio Coal Company, defendants.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 11, 1972; defendants having appeared by their respective counsel; and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and before the taking of any testimony, and without admission by any party with respect to any such issue;

Now, therefore, without trial or adjudication of any issue of fact or law, and upon consent of the parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

This court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended, 15 U.S.C. § 1, commonly known as the Sherman Act.

II

As used in this Final Judgment:

(a) "Person" shall mean any individual, partnership, firm, association, corporation or other business or legal entity;

(b) "Dock coal" means either (1) coal unloaded on the dock coal company's own docks for storage and later shipment to the customer by rail or truck, or (2) coal unloaded at the customer's own docks.

III

The provisions of this Final Judgment applicable to defendants shall also apply to each of their officers, directors, agents,

employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained, individually and collectively, from entering into, adhering to, participating in, maintaining, furthering, enforcing or claiming, directly or indirectly, any rights under any contract, agreement, understanding, plan or program, with any person, to:

(a) Fix, raise, maintain or stabilize prices, discounts or other terms or conditions for the sale of dock coal to retail, commercial, industrial, municipal, county, state and federal customers;

(b) Allocate customers, territories or markets for the sale of dock coal;

(c) Rig bids on sales of dock coal made to retail, commercial, industrial, municipal, county, state and federal customers;

(d) Communicate to or exchange with any other person selling dock coal any information concerning prices at or upon which dock coal is to be sold to any third person prior to the communication of such information to the public or trade generally.

V

Each defendant is enjoined and restrained, individually and collectively, from directly or indirectly:

(a) urging, attempting to influence or suggesting to any other dock coal company the prices or other terms or conditions of sale for dock coal to any third person, and

(b) advising or informing any other defendant of the identity of any of its customers for dock coal.

VI

Nothing herein shall be construed to enjoin or restrain any defendant from:

(a) conducting *bona fide* arm's length purchase or sale negotiations with any supplier or customer of dock coal nor from communicating or exchanging information concerning prices in connection with such negotiations, or

(b) acting as a *bona fide* agent or broker for any producer or processor of dock coal nor from communicating or exchanging information concerning prices, customers, markets or territories as a necessary part of such relationship.

VII

Within sixty (60) days of the entry of this Final Judgment, each defendant is ordered and directed, individually and independently, with respect to dock coal:

(a) To review, determine and establish its prices and other terms and conditions of sale of such coal on the basis of its independent judgment; provided, however, that compliance with the provisions of this Paragraph VII (a) and Paragraph VII (b) shall not be required if within such sixty (60) day period an affidavit signed by the officer or officers responsible for the determination of such

prices, terms and conditions is filed with this Court (with a copy to the Assistant Attorney General in charge of the Anti-trust Division) stating that such defendant, prior to the effective date of this Final Judgment and subsequent to April 11, 1972, reviewed, determined and announced the prices, discounts or terms and conditions of sale of such coal in accordance with the requirements of this paragraph.

(b) To withdraw its then current price lists for such coal, if any, and adopt and publish price lists, if any are used, arrived at pursuant to subparagraph (a) above.

VIII

Each defendant is ordered and directed, for a period of five (5) years from and after the date of entry of this Final Judgment, to furnish simultaneously with each bid or quotation required to be sealed which is submitted by it for the sale of dock coal to municipal, county, state and federal institutions, a certificate in substantially the form set forth in the Appendix hereto, by an official of such defendant having knowledge as to, and responsibility for, the determination of the price or prices bid or quoted, that said bid or quotation was not the result, directly or indirectly, of any agreement, understanding, plan or program between such defendant and any other person selling dock coal; provided, however, that such an affidavit would not be untrue because the defendant has negotiated for, entered into, or carried out a *bona fide* purchase or sale transaction with any other person, with respect to said bid or quotation, whereby the defendant would purchase dock coal from, or supply dock coal to, such person, or whereby the defendant would submit a joint bid or quotation with such person.

IX

Each defendant shall require as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in any dock coal business, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

X

For a period of ten (10) years from the date of entry of this Final Judgment, each defendant is ordered and directed to file with the plaintiff at its Cleveland office (unless otherwise directed) on each anniversary date of such entry, a report setting forth the steps it has taken during the prior year to advise its appropriate officers, directors and employees of its and their obligations under this Final Judgment.

XI

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge

of the Antitrust Division, and on reasonable notice to each or any of the defendants, made to their respective principal offices, be permitted, subject to any legally recognized privilege:

(a) Access, during regular office hours of each or any of such defendants, to all books, records, ledgers, accounts, correspondence, memoranda and other records and documents in the possession of or under the control of each or any of such defendants, relating to any matters contained in this Final Judgment.

(b) Subject to the reasonable convenience of each or any of the defendants, and without restraint or interference from such defendants, to interview their officers or employees, who may have counsel present, regarding any matters contained in this Final Judgment.

Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to their respective principal offices, defendants shall submit such additional reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted in this Paragraph XI shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

XII

Jurisdiction is retained by this Court for the purpose of enabling any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction of or the carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance therewith and for the punishment for violations thereof.

XIII

Entry of this Final Judgment is in the public interest.

Dated:

Chief Judge, United States District Court for the Eastern District of Wisconsin.

CERTIFICATION

The undersigned hereby certifies that, to his best knowledge and belief, the annexed bid has not been prepared in collusion with any other dock coal company and that the prices, discounts, terms and conditions thereof have not been communicated by or on behalf of the bidder to any such person other than the recipient of such bid and will not be communicated to any such person prior to the official opening of said bid. This certification may be treated for all purposes as if it were a sworn statement

made under oath, and is made subject to the provisions of 18 U.S.C. 1001 relating to the making of false statements.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

[Civil Action No. 72-C-211, Judge John W. Reynolds, Filed: April 1, 1976]

United States of America, plaintiff, v. Great Lakes Coal & Dock Company; Hometown, Inc.; and Youghiogheny & Ohio Coal Company, defendants.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. § 16(b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On April 11, 1972, the United States filed a civil complaint under Section 4 of the Sherman Act (15 U.S.C. § 4), alleging that defendants Great Lakes Coal & Dock Company, Hometown, Inc., and Youghiogheny & Ohio Coal Company, violated Section 1 of the Sherman Act (15 U.S.C. § 1). The complaint alleged that defendants and various co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate commerce, the substantial terms of which were (a) to fix, raise and maintain the price of dock coal sold to retail and commercial customers in Milwaukee County, Wisconsin; (b) to allocate customers in Milwaukee County among themselves; and (c) to rig bids on sales of dock coal made to municipal, county, state and federal institutions in Milwaukee County.

Entry by the Court of the proposed Consent Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for possible further proceedings which might be required to interpret, modify or enforce the Judgment, or to punish alleged violations of any of the provisions of the Judgment.

II. DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendants and co-conspirators were engaged in the sale of dock coal to retail, commercial, governmental, and other institutional customers located in Milwaukee County, Wisconsin.

Dock coal is coal unloaded on the dock coal company's own docks for storage and later shipment to customers by rail or truck, or coal unloaded at the customers' own docks. The defendants and co-conspirator dock coal companies purchased dock coal for resale.

In addition to the three corporate defendants, the following corporations were named as co-conspirators: The C. Reiss Coal Company, Consolidation Coal Company, The Jacobus Company, and Schneider Fuel & Dock Company.

The complaint alleged that the defendants and co-conspirators engaged in a conspiracy to fix prices, allocate cus-

tomers and rig bids. The conspiracy, which began prior to 1965, involved meetings, discussions and agreements among officials of defendants and co-conspirators concerning prices, the allocation of various governmental, institutional and commercial customers, and the rigging of bids to various governmental and institutional customers.

According to the complaint, the alleged conspiracy had the following effects: (a) price competition in the sale of dock coal was restrained and eliminated; dock coal prices were raised and stabilized at artificial and noncompetitive levels; and (c) purchasers were deprived of the benefits of free and open competition in the sale of dock coal and of the opportunity of buying dock coal at competitive prices.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have agreed, in a Stipulation, that the Consent Judgment may be entered by the Court at any time after compliance with the *Antitrust Procedures and Penalties Act*. The Stipulation also provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. § 16(e)), entry of said Judgment by the Court is conditioned upon its determination that the proposed Judgment is in the public interest.

A. Prohibited Conduct

The proposed Consent Judgment will prohibit the defendants from entering into any agreement to fix or maintain prices, discounts, or other terms or conditions for the sale of dock coal. Also prohibited are any agreement or understanding to allocate customers, territories or markets for dock coal and any agreement to rig bids on dock coal sales to retail, commercial, industrial, municipal, county, state and federal customers.

The Consent Judgment will further eliminate the discussion of prices among the defendants or with other dock coal competitors, prior to such information being known to the public or trade, except in bona fide purchase and sale transactions and agency-broker relations.

B. Scope of the Proposed Judgment

The Consent Judgment applies not only to the defendant corporations but also to their directors, officers, employees and agents, as well as to any successors or assigns of the defendant corporations. It also applies to anyone participating with the defendants who receives actual notice of the Judgment.

The Judgment is geographically applicable to the entire United States. In duration, the Judgment perpetually restrains the prohibited conduct; i.e., unless the Court either modifies or vacates all or part of the Judgment, the defendants are forever bound by its prohibitions.

C. Effect of the Proposed Judgment on Competition

The proposed Judgment will require the defendants to arrive at their respective dock coal prices independently of each other, if not already done, and will reopen competitive bidding and competitive pricing in general in sales to private as well as public purchasers. The Judgment will also reopen, to all purchasers, sources of supply for dock coal, freed from agreements allocating customers' business to certain dock coal companies.

Where sealed bids are requested, the defendants are required, for the next five years, to submit with every sealed bid a certification by a responsible official that the amount of the bid was not arrived at collusively.

The Judgment also requires each defendant to submit annual reports, for the next ten years, outlining the steps it has taken to comply with the provisions of the decree. The Government is also given access, upon reasonable notice, to the records and employees of the defendants to monitor their compliance with the provisions of the Judgment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Had the Government successfully litigated this lawsuit, the Judgment could have been used as *prima facie* evidence by a potential private litigant. Entry of the proposed Consent Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), this Consent Judgment has no *prima facie* effect in any subsequent private lawsuits which may be brought against these defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the *Antitrust Procedures and Penalties Act*, any person believing that the proposed Judgment should be modified may submit written comments to John A. Weedon, Chief, Great Lakes Field Office, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the Court and published in the *FEDERAL REGISTER*. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Consent Judgment at any time prior to its entry.

VI. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

This case does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the proposed Consent

Judgment. The United States considered one alternative to the proposed Judgment. That alternative was a proposed decree which would have enjoined the defendants regarding all types of coal, not just dock coal. However, because the complaint charged a conspiracy limited to dock coal, and because the proposed Final Judgment completely enjoins the continuation of the alleged conspiracy in dock coal, the Antitrust Division considered the substantive language in the Judgment to be of sufficient scope and effectiveness to make litigation on further relief inappropriate. The Government does not believe that it could secure any additional relief if it prevailed at trial. Therefore, the alternative to the proposed Judgment, namely, proceeding to trial, was not considered to be in the public interest in terms of cost, risk and possible additional relief. Further, should the defendants in this case engage in illegal conspiratorial activity in the future in products not subject to this Judgment, they will remain liable to prosecution under the Sherman Act itself rather than this Final Judgment. Conviction of violations under the Sherman Act now or in the future would subject the defendants to the substantially higher felony penalties.

VII. OTHER MATERIALS

There are no materials or documents which were determinative in formulating the proposal or Consent Judgment; consequently, none are being filed by the Plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

JOHN A. WEEDON,

FRANK M. MOORE,

Attorneys, Department of Justice.

[FR Doc. 76-12717 Filed 4-30-76; 8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. N.V. NEDERLANDSCHE COMBINATIE VOOR CHEMISCHE INDUSTRIE, ET AL.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of New York in Civil Action No. 70-2079, *United States of America v. N.V. Nederlandsche Combinatie Voor Chemische Industrie, et al.* The complaint in this case alleges that a conspiracy existed among consenting and other defendants to control and restrain the purchasing, processing and sale of cinchona bark products, quinine and quinidine. The proposed judgment enjoins consenting defendants Boehringer Mannheim GmbH and Vereinigte Chininfabriken Zimmer & Co. GmbH from all the activities alleged to have been carried out by the conspirators, requires them for a

ten-year period, if they are selling any cinchona product in the United States, to sell such product to any financially and commercially responsible person of the class to which defendants are selling. Public comment is invited on or before July 29, 1976. Such comments and responses thereto will be published in the *FEDERAL REGISTER*, filed with the United States District Court for the Southern District of New York and made available for inspection at the Clerk's office of each United States District Court. Comments should be directed to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: April 30, 1976.

CHARLES F. B. McALEER,
Assistant Chief, Judgments and
Judgment Enforcement Section,
Antitrust Division.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

[Civil No. 70 Civ. 2079; Filed: April 30, 1976]

UNITED STATES OF AMERICA, PLAINTIFF, AGAINST
N. V. NEDERLANDSCHE COMBINATIE VOOR
CHEMISCHE INDUSTRIE, ET AL., DEFENDANTS

Stipulation. It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. Pursuant to the procedures set forth in the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the proposed Final Judgment in the form hereto attached may be filed immediately and, thereafter, at any time after compliance with the requirements of said Act has been achieved to the satisfaction of the Court, the proposed Final Judgment may be entered by the Court upon its own motion as a Final Judgment without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendants in this and any other proceeding.

Dated April 30, 1976.

For the Plaintiff: Thomas E. Kauper, Assistant Attorney General, Baddia J. Rashid, Charles F. B. McAleer, Elliott H. Moyer, Joel Davidow, Donald A. Kaplan, Julie Brooks Murray, Attorneys, Department of Justice.

For the Defendants: Cleary, Gottlieb, Steen & Hamilton, By James W. Lamberton, A Member of the Firm. Attorneys for Defendants: Boehringer Mannheim GmbH and Vereinigte Chininfabriken Zimmer & Co. GmbH.

Dated: April 30, 1976.

Stipulation approved for filing:

DAVID N. EDELSTEIN,
U.S. District Judge.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

[Civil No. 70 Civ. 2079; Filed: April 30, 1976]

UNITED STATES OF AMERICA, PLAINTIFF, AGAINST
N.V. NEDERLANDSCHE COMBINATIE VOOR
CHEMISCHE INDUSTRIE, ET AL., DEFENDANTS

Final judgment. Plaintiff, United States of America, having filed its complaint herein on May 21, 1970, and plaintiff and the con-

sending defendants Boehringer Mannheim GmbH and Vereinigte Chininfabriken Zimmer & Co. GmbH, by their respective attorneys, each having consented to the jurisdiction of the United States solely for the purpose of this case, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party consenting hereto with respect to any such issue, and this Court having determined, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay in entering a Final Judgment as to all of the plaintiff's claims asserted in said complaint against the consenting defendants and having directed the entry of such a Final Judgment:

Now, therefore, without the taking of any testimony and without trial or adjudication of any issue of fact or law herein, except as to which Section 5(h) of the Act of Congress of October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" commonly known as the Clayton Act, as amended, is applicable, and upon the consent of plaintiff and of each of the consenting defendants, it is hereby ordered, adjudged and decreed as follows:

I. This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states claims upon which relief may be granted against the consenting defendants under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended, and Section 73 of the Act of Congress of August 27, 1894, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," commonly known as the Wilson Tariff Act, as amended. The making and entering of this Final Judgment shall not prejudice or estop plaintiff from obtaining other, further and different relief against the defendants not consenting hereto. This Court determines that the entry of this consent judgment is in the public interest.

II. As used in the Final Judgment: A. "Person" means any individual, partnership, firm, corporation, association or other business or legal entity;

B. "Product" means any pharmaceutical product composed in whole or in part of quinine, natural quinine, quinine synthesized from quinine, any quinine salt or any material extracted from the bark of the cinchona tree, and cinchona bark; or any other product containing a not insubstantial quantity of any of the aforesaid materials in proportion to the total active ingredients of such product;

C. "United States" means the United States, any territory thereof, the District of Columbia and any insular possession or other place under the jurisdiction of the United States.

III. The provisions of this Final Judgment applicable to any consenting defendant shall also apply to each of its subsidiaries, successors and assignees, and to each of the officers, directors, agents and employees of any consenting defendant or its subsidiaries, successors and assignees, and to all persons acting or claiming to act on behalf thereof, and to all other persons in active concert or participation with such consenting defendant who shall have received actual notice of this Final Judgment by personal service or otherwise. Except for sales to the plaintiff or any agency or instrumentality thereof, this Final Judgment shall not apply to activities outside the United States which do not affect the foreign or domestic commerce of the United States.

IV. The consenting defendants are each enjoined and restrained from directly or indirectly in any manner entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, arrangement or understanding, with any other person to:

A. Fix, maintain or stabilize the price for the sale or resale of any Product to any third person;

B. Allocate, limit or divide territories or markets for the sale, production, processing or purchase of any Product;

C. Establish quotas for the manufacture, processing or sale of any Product;

D. Confine the manufacturing or processing of any Product to any certain manufacturers or processors;

E. Eliminate any producer of any Product other than by the sale of all or a part of a business or by a lawful covenant ancillary to any such sale;

F. Designate or utilize any person as an exclusive agent for the importation into or the sale in the United States of any Product;

G. Act as exclusive agent for any defendant herein for the importation into or sale in the United States of any Product;

H. Submit noncompetitive, collusive or rigged bids or quotations for any purchase or sale of any Product;

I. Allocate, divide or share purchases of cinchona bark; provided, that for the purposes of this paragraph, each consenting defendant and its subsidiaries, officers, directors, agents and employees, or any of them, shall be deemed to be one person when acting in such capacity.

V. For a period of ten (10) years from the date of entry of this Final Judgment, so long as a consenting defendant is selling or offering for sale any Product in the United States to any person other than a distributor who purchases a Product for resale only, such consenting defendant is ordered and directed to sell such Product to any financially and commercially responsible person upon the request of such person if a supply of such Product is available or will be reasonably available in the form desired, and if the Product is not a specialty product (i.e., such Product has been manufactured or designed to meet the peculiar specifications of a particular purchaser); provided, however, if consenting defendant refuses to sell to any prospective purchaser upon the ground that such purchaser is not financially and commercially responsible, or that a supply of such Product is not available nor will be reasonably available in the form desired, or that the Product is a specialty product, the reason for such refusal shall be set forth in writing and submitted as soon as is reasonably practicable both to the Court and to the Department of Justice; and provided, further, that consenting defendant may seek the permission of the Court to refuse to sell to any prospective purchaser upon a showing to the satisfaction of the Court either that such purchaser is not regularly engaged in using the Product which such person seeks to order or that such person has not been able to demonstrate that he will be regularly engaged in using such Product; and provided, third, that in the event that a condition of shortage with respect to a particular Product exists or will exist in the foreseeable future, consenting defendant may jointly formulate with the Department of Justice a plan for the allocation of the sales of such Product during the period of such shortage and submit such plan for the approval of the Court prior to the proposed effective date of such proposed plan. Whenever a consenting defendant shall refuse to sell any Product to any prospective purchaser, such consenting defendant shall supply a copy of this Final Judgment to such prospective purchaser.

VI. From the date of entry of this Final Judgment and for the purpose of securing compliance with this Final Judgment and for no other purpose, each consenting defendant agrees:

A. To appoint and maintain continuously Corporation Trust Company, 277 Park Avenue, New York, New York, as its representative within the Southern District of New York duly authorized by consenting defendant to receive written requests from the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, or his agent, copies of which are to be delivered to the Court, for books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of consenting defendant, particularized or identified in the request to the extent reasonably practicable and relating to any of the subject matters contained in this Final Judgment, and upon receipt of such a written request from the Attorney General or the Assistant Attorney General, or his agent, such representative shall notify consenting defendant and, within 60 days of the receipt of such request by the representative, consenting defendant shall provide duly authenticated copies of such documents at the Department of Justice in Washington, D.C.; and

B. Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, or his agent, copies of which are to be delivered to the Court, and on reasonable notice to consenting defendant, to permit duly authorized representatives of the Department of Justice:

(1) Access at consenting defendant's place(s) of business during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of consenting defendant, relating to any of the subject matters contained in this Final Judgment, provided that during any visit by the plaintiff to consenting defendant's premises, counsel for consenting defendant may be present; and

(2) Subject to the reasonable convenience of consenting defendant, and without restraint or interference from it, to interview at consenting defendant's place(s) of business officers or employees located in any country regarding any such matters, provided that during any such interview by the plaintiff counsel for consenting defendant may be present;

provided, however, that consenting defendants shall not be required to bring to the United States any books or other records or copies thereof pursuant to subparagraph A above, nor to permit access by representatives of the Department of Justice to defendant's books, ledgers, accounts, correspondence, memoranda and other records and documents pursuant to subparagraph B(1) above, nor to permit interviews pursuant to subparagraph B(2) above, when such production, access, or interviews would require action in any country with jurisdiction over consenting defendants, other than the United States, and such country or treaty organization of which such country is a member prohibits such action unless plaintiff obtains permission of the appropriate authorities for defendants to take such action. Consenting defendants will acquiesce to the extent permitted by such country or treaty organization in plaintiff's attempt to secure such permission.

VII. If a consenting defendant opens a place of business in the United States for the purpose of dealing in any Product covered by this Final Judgment, for the purpose of securing compliance with this Final Judgment and for no other purpose, and

subject to any legally recognized privilege, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, or his agent, a copy of which is to be delivered to the Court, and on reasonable notice to such consenting defendant made to its place of business as aforesaid in the United States, duly authorized representatives of the Department of Justice will be permitted:

A. Access at such consenting defendant's place of business in the United States during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such consenting defendant, whether located in the United States or any other country, relating to any of the subject matters contained in this Final Judgment, provided that during any visit by the plaintiff to consenting defendant's premises counsel for consenting defendant may be present; and

B. Subject to the reasonable convenience of such consenting defendant, and without restraint or interference from it, to interview at such consenting defendant's place of business in the United States officers or employees located within the United States or in any other country regarding any such matters, provided that during any such interview by the plaintiff counsel for consenting defendant may be present, and provided further that no consenting defendant shall be obligated to bring to the United States for the purpose of interview any officer or employee except on order of this Court specifically so providing.

Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, or his agent, to the consenting defendant at its place of business as aforesaid in the United States, and for the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, such consenting defendant shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. A copy of such written request shall be delivered to the Court.

VIII. No information obtained by the means provided in sections VI and VII of this Final Judgment shall be divulged by any representatives of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

IX. Service of process in any proceeding for the purpose of construing, carrying out, modifying or enforcing compliance with any provision of this Final Judgment may be effected on consenting defendants by personal service upon Corporation Trust Company, 277 Park Avenue, New York, New York, as consenting defendants' agent for service of process in connection with this Final Judgment, and consenting defendants hereby constitute Corporation Trust Company as their agent for the sole purpose of receiving service in any such proceeding by the plaintiff under this Final Judgment. Service so made shall be deemed service on consenting defendants. If Corporation Trust Company ceases acting as such agent at any time, then consenting defendants shall immediately notify the Court and the plaintiff of that fact and shall within ten (10) days appoint another person located within the Southern District of New York and otherwise acceptable to the plaintiff and the Court to act as such agent. Service of process on such

substituted agent shall be deemed service on consenting defendants. For a period of twenty (20) years from the date of entry of this Final Judgment, consenting defendants are enjoined and restrained from terminating, or attempting to terminate, the authority of Corporation Trust Company or of any substituted agent appointed pursuant to this section unless consenting defendants shall immediately notify the Court and the plaintiff of such termination and within ten (10) days of such termination appoint another person located within the Southern District of New York and otherwise acceptable to the Department of Justice and the Court to act as such agent.

The terms of this section shall cease to have any force and effect at the expiration of a period of twenty (20) years from the date of entry of this Final Judgment, provided that the Court may determine at the expiration of such period to extend the operation of the terms of this section for an additional period of time.

X. Jurisdiction is retained for all purposes.

Dated: New York, New York, 1976.

DAVID N. EDELSTEIN,
Chief Judge,
U.S. District Court.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

[Civil Action No. 70 Civ. 2079;
Filed: April 30, 1976]

UNITED STATES OF AMERICA, PLAINTIFF, V.
N.V. NEDERLANDSCHE COMBINATIE VOOR CHEMISCHE INDUSTRIE, ET AL., DEFENDANTS

Competitive impact statement. Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. §§ 16(b)-(h), P.L. 93-528 (December 21, 1974)) the United States of America hereby files this Competitive Impact Statement relating to a proposed consent judgment in the above entitled action to be entered against defendants Boehringer Mannheim GmbH ("Boehringer") and Vereinigte Chiniinfabriken Zimmer & Co. GmbH ("Zimmer").

I. Nature and Purpose of the Proceeding. This action was filed on May 21, 1970 against Boehringer, Zimmer and other defendants and coconspirators, charging that they engaged in an unlawful combination and conspiracy to restrain and to monopolize foreign and interstate trade and commerce in quinine, quinidine and other cinchona bark products in violation of Sections 1 and 2 of the Sherman Act (15 U.S.C. §§ 1 and 2), and Section 73 of the Wilson Tariff Act (15 U.S.C. § 8). The Government sought relief against Boehringer, Zimmer and the other defendants enjoining the alleged violations, prohibiting defendants from engaging in future programs having similar effects, preventing exclusive dealing in cinchona products and ensuring that all financially responsible customers be allowed to purchase cinchona products on equal terms.

II. Practices and Events Giving Rise to the Alleged Violations of the Antitrust Laws. It was alleged that from 1958 to 1966 a conspiracy existed among defendants and coconspirators to control and restrain the purchasing, processing and sale of the cinchona bark products, quinine and quinidine, and to defraud the United States in its sales and purchases of quinine products. Parties to the conspiracy included companies based in the Netherlands, Federal Republic of Germany, Republic of France and The United Kingdom, and their principal officers. Also participating in this conspiracy were the exclusive importers into the United States for the European manufacturers.

In substance, the complaint alleged that defendants by conspiratorial action had:

(a) Participated in a joint buying group, fixed prices they would pay for the raw material, cinchona bark, boycotted certain producers of the bark, and arranged a "bark pool" to share available supplies during the period of the boycott;

(b) Agreed that only certain defendant companies would be allowed to process cinchona bark into quinidine drugs;

(c) Divided territories for sales among the manufacturers, established quotas on sales in some territories and eliminated price competition by the establishment of a complex, worldwide multiproduct price schedule; and

(d) Manipulated world prices of the drugs and engaged in bid-rigging in order to purchase the United States Government's stockpile of quinine at a depressed price so as to keep quinine out of the hands of potential competitors and enable the companies to enforce both the boycott and the price-fixing in the purchase of the raw bark.

The activities giving rise to this action were also investigated by the United States Senate and a federal grand jury. The grand jury indicted fifteen companies and eight individuals. The Department of Justice also brought civil suits seeking recovery for damages to the United States. The civil and criminal cases have been concluded as to a number of the defendants, and are in the various stages of settlement as to certain of the others. A small number of defendants have resisted or ignored the jurisdiction of the court and have never appeared in either the civil or criminal actions. Many of the companies were also tried by the European Economic Commission and substantial fines were levied by that tribunal. Private actions in the United States have been brought and settled.

As defendant Zimmer is a subsidiary of Boehringer, relief in the government's criminal and civil damage cases has been directed at Boehringer. Defendant Boehringer has pleaded nolo contendere to the criminal charges and has been fined \$80,000. Boehringer has paid the United States \$100,000 in settlement of the civil damage case, and has contributed to a settlement fund in the private actions.

III. The Proposed Consent Judgment and Its Anticipated Effects on Competition. The proposed consent judgment enjoins defendants from all the activities alleged to have been carried out by the conspirators. Paragraph V additionally requires mandatory sale for ten years if a consenting defendant sells to other than a distributor for resale in the United States. See page 6, *infra*. This portion of the consent decree is essentially the same as those in prior decrees in this case, which were accepted by this Court in 1970.¹

If the proposed consent judgment is approved by the Court, substantial injunctive provisions will be imposed upon consenting defendants when dealing with any pharmaceutical product composed in whole or in part of quinine, natural quinidine, quinidine synthesized from quinine, any quinine salt or any material extracted from the bark of cinchona trees; or any other product containing a not insubstantial quantity of any of the aforesaid material in proportion to the active ingredients of such product. The consenting defendants will be enjoined and restrained from directly or indirectly, in any manner, entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, arrangement or understanding, with any other person to:

¹ On July 8, 1970, a consent judgment was entered against Dart Industries, Inc., Mead Johnson & Co., R. W. Greff & Co., Inc., and Vantorex, Ltd.

A. Fix, maintain or stabilize the price for the sale or resale of any product, as defined, to any third person;

B. Allocate, limit or divide territories or markets for the sale, production, processing or purchase of any product, as defined;

C. Establish quotas for the manufacture, processing, or sale of any product, as defined;

D. Confine the manufacturing or processing of any product, as defined, to certain manufacturers or processors;

E. Eliminate any producer of any product, as defined, other than by sale of all or part of a business or by a lawful covenant ancillary to any such sale;

F. Designate or utilize any person as an exclusive agent for the importation into or the sale in the United States of any product, as defined;

G. Act as exclusive agent for any defendant in this case for the importation into or sale in the United States of any product, as defined;

H. Submit noncompetitive, collusive or rigged bids or quotations for the purchase or sale of any product, as defined;

I. Allocate, divide or share purchases of cinchona bark;

Provided that, for the purpose of this part of the proposed judgment, each consenting defendant and its subsidiaries, officers, directors, agents and employees, or any of them, shall be deemed to be one person when acting in such capacity.

Furthermore, for a ten-year period, if consenting defendants are selling any product, as defined, in the United States to any person other than a distributor who purchases such product for resale only, consenting defendants are required to sell such product to any financially and commercially responsible person if a supply is or will be available in the form desired and if such product is not a specialty product. This would restrict defendants' right to select customers and is directed toward dissipating an effect of the alleged violations. Under this provision during periods of supply shortages, defendants may jointly formulate with the Department of Justice a plan for allocation of sales of the product and must seek Court approval prior to effectuating the proposed plan. Any refusal by consenting defendants to sell, whether on the ground that the prospective purchaser is not financially and commercially responsible, or that a supply of the product is not or will not be reasonably available in the form desired, or that the product is a specialty product, must be written and submitted both to the Court and the Department of Justice. Further, consenting defendants may seek permission of the Court to refuse to sell to a prospective purchaser upon a satisfactory showing that the prospective purchaser is neither regularly engaged in selling such product, nor will be so engaged. Consenting defendants are required, upon any refusal to sell, to supply a copy of the Final Judgment to the prospective purchaser so refused.

For at least twenty years, the proposed judgment affords the Government a method of securing compliance with the Final Judgment and of detecting any new violations by inspection of documents and records in control of defendants. Such documents and records shall be made available upon the Government's written request to an agent appointed and maintained by defendants in New York for the purpose of receiving such requests. Moreover, the Government shall be permitted, for the purpose of securing compliance with the Final Judgment, to inspect documents and records under consenting defendants' control at their places of business and there to interview business officers or employees regardless of the country in which they may reside. Defendant is entitled to

have counsel present during any such inspection or interview. If the laws of any country other than the United States having jurisdiction over consenting defendants, or of any treaty organization of which that country is a member, prohibit such production of records in the United States, access to documents and records for inspection in such prohibiting country, or interviews of officers and employees in such country, consenting defendants will be excused from compliance to the extent compliance requires action in such country unless the Government obtains permission from the appropriate authorities for them to take such action. Consenting defendants are required to acquiesce to the extent permitted by the particular country or treaty organization in plaintiff's attempt to secure such permission.

The consent judgment provides that subject to any legally recognized privilege if a consenting defendant opens a place of business in the United States for the purpose of dealing in any product covered by the consent judgment, its records will be subject to inspection and its employees will be subject to interview at such place of business in the United States by the Department of Justice, whether those records or employees are located in the United States or any other country. Defendant is entitled to have its counsel present during any such inspection or interview, and shall not be obligated to bring officers or employees to the United States for such interviews except pursuant to court order. Additionally, upon the written request of certain officials of the Department of Justice to the defendant at its place of business in the United States, and subject to any legally recognized privilege, defendant shall submit written reports with respect to any of the matters in the proposed judgment as may be requested.

Although prior relief, including action by the European Economic Commission, has dealt with defendants' conspiratorial actions, this consent judgment will prevent Boehringer and Zimmer from joining any similar ventures in the future. Since such practices as allocation of markets, bid-rigging, pooling of raw materials and boycotting certain raw material producers will be prohibited, the provisions of the judgment seek to promote henceforth a more diverse and competitive industry in quinine and quinidine drugs at both the manufacturing and refining stage.

It must be noted, however, that purposeful acts by governments in the countries producing the raw materials (most of which are developing countries) have caused substantial price increases which are reflected in the prices charged for completed products, even in the absence of private cartel activity in the manufacturing and distribution sectors.

IV. Remedies Available to Potential Private Plaintiffs. Potential private plaintiffs damaged by Boehringer's alleged violations have previously sought and received relief through two class actions brought in the United States District Court for the Eastern District of Pennsylvania.

A class action entitled *Mary Cusick, Executrix of the Estate of Richard J. Cusick, Deceased, et al. v. N. V. Nederlandsche Combinatie Voor Chemische Industrie, et al.*, Civil Action No. 68-2457 (the "Cusick action"), was filed on behalf of individual consumers of quinine, quinidine, other cinchona products and any other related products or substances who would have suffered as a result of the alleged violations. Another class action entitled *Sol S. Turnoff Drug Distributors, Inc., et al. v. N.V. Nederlandsche Combinatie Voor Chemische Industrie, et al.*, Civil Action No. 69-1883 (the "Turnoff action"), was brought on behalf of wholesalers and retailers of the same products. Boehringer was named as a defendant in both ac-

tions and contributed \$180,000 to a joint settlement pool, which totaled \$1,300,000, against which all injured members of the two classes were entitled to file claims. The terms of the settlement and notice of the opportunity to file claims were printed in English or Spanish newspapers throughout the United States. The individual druggists and wholesalers each received direct notice by mail. Approximately 750 consumer claims and 750 wholesaler and retailer claims were filed. An order approving the settlement was signed by the Court on June 25, 1973. Thus, all potential users, retailers or wholesalers of cinchona bark products, except for those requesting exclusion from the two classes, have had their opportunity to receive relief. All other potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable relief which they would have had, were the proposed consent judgment not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V. Procedures Available for Modification of the Proposed Consent Judgment. The proposed consent judgment is subject to a stipulation between the United States and the consenting defendants which provides that the United States may withdraw its consent to the proposed consent judgment until such time as the Court enters the proposed judgment after having found that such entry is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction in this action for all purposes. Such retention of jurisdiction will enable any of the consenting parties to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided in the Antitrust Procedures and Penalties Act, any person wishing to comment on the proposed judgment may, for a 90 day period terminating on July 29, 1976, submit written comments to the United States Department of Justice, Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Washington, D.C. 20530. Every thirty days until July 29, 1976 the United States will publish in the *FEDERAL REGISTER* and make available to the public in the U.S. clerk's office in each federal judicial district all comments received during such thirty-day period and a response thereto, and will evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed consent judgment.

VI. Alternatives to the Proposed Judgment Considered by the United States. In view of the fact that the proposed consent judgment provides for relief which prohibits and corrects the violations alleged in the complaint, a full trial on the merits was not considered as an appropriate alternative.

Different approaches to certain of the procedural portions of the proposed consent judgment were discussed at a hearing on December 9, 1974 before Chief Judge Edelstein of the United States District Court for the Southern District of New York. As a result of that hearing, the injunctive provisions of the proposed consent judgment were expanded to prohibit consenting defendants from maintaining or stabilizing the price, for resale as well as sale, of any product, as defined. The injunctive provisions were further expanded to prohibit the allocation, division or sharing of purchases of cinchona bark. These additions broadened the scope of the activities enjoined.

Other modifications arose from the December 9 hearing regarding the obligation of consenting defendants to sell the products covered by the proposed consent judgment to prospective purchasers in the United States.

One such modification proposed and now deleted was to establish a procedure for arbitration of any disputes arising from a refusal to sell where defendants were so required under the judgment.

The parties could not agree to another proposal made by the Court at the December 9 hearing establishing a procedure permitting plaintiff to examine consenting defendants' books and records and to interview their officers and employees in Germany, because the consenting defendants were unwilling and claimed to be unable to permit such broad visitation rights, and because the Department of Justice believed such foreign visitation would pose foreign relations problems. A provision was added, however, to permit inspection of books and records and interviews of defendants' officers and employees at consenting defendants' place(s) of business in the United States if and when such place(s) of business were opened within the United States, regardless of where the documents, officers or employees were located.

Subsequent to the parties' submission to the Court on February 28, 1975, of a proposed consent judgment incorporating the changes described above, Chief Judge Edelstein submitted a draft proposed judgment to the parties differing in several respects from the one submitted by the parties on February 28, 1975. These alternate approaches were considered and were substantially adopted in the present proposed final judgment.

The following provisions in the draft submitted by the Court to the parties were modified or not included in the judgment proposed here.

(1) The Court deleted in the second paragraph of the preamble to the judgment after "Now, therefore," the new expression "without the taking of any testimony and without trial or adjudication of any issue of fact or law herein," which was reinserted by the parties, but only in reference to Section 5 (h) of the Clayton Act as amended. While the parties do not believe the judgment would have any effect beyond this immediate proceeding, the change from the language suggested by the Court conforms to the provisions of the Antitrust Procedures and Penalties Act and confirms that the proposed consent judgment could not be used as the basis for liability in private treble damage actions against consenting defendants.

(2) The definition of the products covered by the judgment submitted by the Court has been limited, since under the Court's definition the proposed consent judgment would have covered any product containing even de minimus amounts of cinchona bark derivatives. Under the Court's definition of product, defendants could have unknowingly violated the judgment by dealing with a nonpharmaceutical product which contained traces of cinchona bark derivatives. Defendants could not agree upon, nor does relief require, a provision imposing such uncertain risks on defendants.

(3) The word "transferees" included by the Court as one class to which the proposed consent judgment would be applicable was deleted by the parties. The inclusion of such language could have had the effect of making the provisions applicable to purchasers of cinchona bark derivatives from defendants, rather than to successors or assignees standing in the place of defendants. Since the prohibitions of the judgment were not meant to attach to the Products nor to specific assets of consenting defendants, as distinguished from the consenting defendants themselves, the inclusion of the word "transferees" may be beyond the reach of Rule 65(d) of the Federal Rules of Civil Procedure in this case.

(4) Three changes were made by the parties in the injunctive provisions of the proposed final judgment altering the draft submitted by the Court. First, the prohibition enjoining consenting defendants from acting as exclusive agent for any consenting defendant for the importation into or sale in the United States of any product covered by the judgment was clarified to effect a broader intent, to wit, to prohibit the consenting defendants from acting as exclusive agent in any way for any defendant in the case. Second, an injunction included by the Court enjoining consenting defendants from engaging in "any other practice, plan, program or device having a similar effect" was deleted because it is believed by the parties to be too indefinite under the specificity requirements of Rule 65(d) of the Federal Rules of Civil Procedure. The third change made by the parties regarding the injunctive provisions was the replacement of the Court's proviso protecting "internal management" conduct of defendants with language previously agreed upon by the parties to treat consenting defendants and their personnel as one person for the sole purpose of the application of the injunctive provisions of Paragraph IV. When in fact acting as one person, Boehringer, its subsidiary Zimmer, and their respective employees will receive a more certain exemption from the provisions of the judgment, which was the intention of the parties. The language ultimately agreed to by the parties will be more likely to accomplish this purpose, given the current state of the law in this area.

The Court eliminated the parties' prior proposal of seeking arbitration as a means to settle disputes over any instance of a consenting defendant refusing to sell a product to a prospective purchaser, when such defendant is already selling that product in the United States. It further eliminated the limitation that consenting defendants need only sell to those purchasers within the class to which defendants are then selling. The Court also eliminated the provision which would have allowed defendants to take into consideration prior business dealings with purchasers requesting to purchase products in the event of short supplies. The parties have agreed to the modifications submitted by the Court concerning the selling requirements, set forth in Section 3 of this Competitive Impact Statement, with two additions.

First: The restriction on consenting defendants' freedom to choose their customers is not activated as long as they continue to sell only to distributors. However, once they sell any of the covered products in the United States to purchasers other than distributors who purchase for resale only, they will be subject to the selling requirements imposed by the proposed consent judgment. This addition is included to reflect consenting defendants' current method of marketing their products and, as well, the fact that they are not presently capable of entering into other levels of distribution, as Paragraph V could require absent this addition. Requiring consenting defendants to sell to all purchasers at all levels in the distribution chain is not essential to restore competition and would be an unnecessary harsh and punitive remedy, which the courts have held to be an improper use of an antitrust consent judgment. Even with this addition, defendants are not completely free in their dealings with distributors since such dealings are adequately covered by Paragraph IV and current case law.

Second: Consenting defendants are required to furnish a copy of the Final Judgment to any potential purchaser who is denied the opportunity to purchase.

While previously having considered and rejected foreign visitation rights abroad, the parties have now reached an agreement comports with the Court's modifications to provide for the right of plaintiff to conduct file searches and interviews on defendants' premises in foreign countries. Changes from the Court's draft proposed judgment were made with respect to two procedural aspects. The first is a proviso permitting interviews without a court order; the second shifts the burden to the Government to obtain permission from appropriate foreign governmental authorities for defendants to allow foreign inspection or interviews where such action would be prohibited by the foreign law. Such a provision enables the United States to exact compliance with the proposed consent judgment and further avoids the potential foreign relations problems attendant to previously considered alternatives. As well, the United States can use normal diplomatic channels to obtain official permission to conduct interviews or document inspection on foreign soil. This would eliminate the necessity of placing consenting defendants in the difficult position of satisfying a United States court that they have made a good faith attempt to have the foreign prohibition waived while concomitant attempting to seek such a waiver from the foreign authorities.

Consenting defendants have not been served with the complaint and may, arguably, be beyond the personal jurisdiction or enforcement power of the Court. Nonetheless, they have agreed to refrain from all activities against which the complaint was addressed. In addition, as outlined above in the discussion of the provisions of the consent judgment, consenting defendants have agreed to liberal interview and document inspection procedures which will significantly simplify and aid the Department of Justice in fulfilling its compliance oversight responsibilities.

No materials and documents of the type described in Section (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)) were considered in formulating this proposed consent judgment.

VII. Summary of the Antitrust Procedures and Penalties Act. The Antitrust Procedures and Penalties Act ("APPA") requires that before entry of the proposed judgment and after the following statutory requirements have been met, the Court must find that its entry is in the public interest. In deciding that such entry is in the public interest, the Court may consider the competitive impact of the judgment, including its effectiveness, the duration of the relief sought, the alternate remedies considered, the impact of the judgment upon the public generally as well as individuals alleging specific injury, and any other considerations bearing upon the adequacy of the judgment. In making this determination, the Court may take testimony, consult with experts, government officials or any other individual or group, authorize full or limited participation in the proceedings by interested persons or agencies, review objections filed or other comments with respect to the proposed judgment and responses of the United States thereto and take any other action in the public interest as it may deem appropriate.

The APPA requires the United States to cause to be published at least 60 days prior to the effective date of the judgment for a total of seven days over a two-week period in newspapers of general circulation in the Southern District of New York, the District of Columbia and such other places as the Court may direct, a summary of the terms of the proposed judgment, a summary of the Competitive Impact Statement ("CIS") required by the APPA and a list of materials which the United States considered determinative in formulating the judgment. The

Court has directed that publication proceed as follows:

1. Seven days over a two-week period in the New York Times and Washington Post;
2. Two days in the National edition of the Wall Street Journal;
3. One day in a newspaper in each federal judicial district containing a high concentration of pharmaceutical manufacturers (however, only to the extent that compliance with this directive does not duplicate compliance with number four below);
4. Two days in a newspaper in each of the twenty largest Standard Metropolitan Statistical Areas ("S.M.S.A.'s") as defined by the Bureau of the Census, excluding the "New York, N.Y.-N.J." and Washington, D.C.-Md.-Va." S.M.S.A.'s;
5. One month in the "American Druggist"; and
6. Two weeks in the "Chemical Marketing Reporter."

The APPA also provides that the proposed judgment shall be filed with the Court and published by the United States in the Federal Register at least 60 days prior to its effective date. During such period, which in this case will be 90 days, the United States is required to accept receipt of and consider any written comments to the proposal, which comments and responses thereto by the United States will be filed with the Court and published in the Federal Register. At the Court's direction such comments and responses thereto will also be made available to the public in the Clerk's office in each federal judicial district in the United States.

Under the APPA, copies of the proposed judgment and any other materials which the United States considered determinative in formulating the proposal are to be made available to the public in the Southern District of New York and in such other districts as the Court may direct. Accordingly, pursuant to the Court's direction, copies of the proposed judgment and the CTS are available for inspection and copying in the Clerk's office in each federal judicial district in the United States. Moreover, the CIS, which must be filed simultaneously with the proposed judgment, will be published in the Federal Register, and thereafter furnished to any person upon written request.

Not later than 10 days from the date of filing of the proposed judgment (May 10, 1976) each defendant must file with the Court a description of each written or oral communication by or on behalf of each defendant, including any and all such communications on behalf of such defendant or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or employees of the Department of Justice alone shall be excluded from this requirement. Prior to the entry of the consent judgment, each defendant must certify to the Court that the last above-mentioned requirement has been complied with and that such filing is a true and complete description of such communications known to the defendant or of which the defendant should have known.

Dated: Washington, D.C. April 30, 1976.

JOEL DAVIDOW,
DONALD A. KAPLAN,
JULIE BROOKS MURRAY,
Attorneys, Antitrust Division, Department of Justice, Attorneys for Plaintiff.

Begin and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

AN ACT

To reform consent decree procedures, to increase penalties for violation of the Sher-

man Act, and to revise the Expediting Act as it pertains to Appellate Review.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedures and Penalties Act".

CONSENT DECREE PROCEDURES

Sec. 2. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 16), is amended by redesignating subsection (b) as (1) and by inserting immediately after subsection (a) the following:

"(b) Any proposal for a consent judgment submitted by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which such proceeding is pending and published by the United States in the Federal Register at least 60 days prior to the effective date of such judgment. Any written comment relating to such proposal and any responses by the United States thereto, shall also be filed with such district court and published by the United States in the Federal Register within such sixty-day period. Copies of such proposal and any other materials and documents which the United States considered determinative in formulating such proposal, shall also be made available to the public at the district court and in such other districts as the court may subsequently direct. Simultaneously with the filing of such proposal, unless otherwise instructed by the court, the United States shall file with the district court, publish in the Federal Register, and thereafter furnish to any person upon request, a competitive impact statement which shall recite—

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

"(5) a description of the procedures available for modification of such proposal; and

"(6) a description and evaluation of alternatives to such proposal actually considered by the United States.

"(c) The United States shall also cause to be published, commencing at least 60 days prior to the effective date of the judgment described in subsection (b) of this section, for 7 days over a period of 2 weeks in newspapers of general circulation of the district in which the case has been filed, in the District of Columbia, and in such other districts as the court may direct—

"(i) a summary of the terms of the proposal for the consent judgment,

"(ii) a summary of the competitive impact statement filed under subsection (b),

"(iii) and a list of the materials and documents under subsection (b) which the United States shall make available for purposes of meaningful public comment, and the place where such materials and documents are available for public inspection.

"(d) During the 60-day period as specified in subsection (b) of this section, and such additional time as the United States may request and the court may grant, the United

States shall receive and consider any written comments relating to the proposal for the consent judgment submitted under subsection (b). The Attorney General or his designee shall establish procedures to carry out the provisions of this subsection, but such 60-day time period shall not be shortened except by order of the district court upon a showing that (1) extraordinary circumstances require such shortening and (2) such shortening is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

"(e) Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

"(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

"(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

"(f) In making its determination under subsection (e), the court may—

"(1) take testimony of Governments officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual, group or agency of government with respect to any aspects of the proposed judgment or the effect of such judgment, in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate.

"(4) review any comments including any objections filed with the United States under subsection (d) concerning the proposed judgment and the responses of the United States to such comments and objections; and

"(5) take such other action in the public interest as the court may deem appropriate.

"(g) Not later than 10 days following the date of the filing of any proposal for a consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any and all written or oral communications on behalf of such defendant, or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the de-

fendant or which the defendant reasonably should have known.

"(h) Proceedings before the district court under subsections (e) and (f) of this section, and the competitive impact statement filed under subsection (b) of this section, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

[FR Doc.76-12812 Filed 4-30-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO STATE MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Idaho Multiple Use Advisory Board of the Bureau of Land Management, U.S. Department of the Interior, will meet in the American Legion Hall, Challis, Idaho on June 17, 18 and 19, 1976. Beginning at 7:00 PM on Thursday, June 17, the Board will meet to hear the report of the State Director as well as briefings on topics before the Board for consideration.

Friday, June 18 will involve field examination of the Challis Planning Unit relative to the Draft Environmental Impact Statement on grazing management on National Resource Lands in that Unit. Members of the public wishing to participate in the field tour will have to furnish their own transportation. The Board will commence at the Legion Hall at 7:00 PM that evening to further discuss the Draft Environmental Impact Statement.

Saturday, June 19, the final day of the meeting, will be devoted to additional Board work to include consideration of the BLM Idaho Five Year Agricultural Development Program and the public domain forestry program. This will be followed by Board reports and recommendations.

All meetings of the Board will be open to the public. Time will be made available from 11:00 AM to 12 Noon on Saturday, June 19, for brief oral statements by members of the public. Such statements must be germane to the topics under consideration. The following procedures shall be observed during the public comment period.

1. Members of the public shall limit their appearances to 10 minutes followed by questioning from Board members.
2. Two or more persons from the same organization shall designate one person to speak for the group.
3. Persons making statements shall provide two copies of their oral comments in writing to the Board chairperson before making their presentation.
4. Persons who are unable to provide written comments shall be placed last on the agenda.
5. All comments will be tape recorded. Anyone wishing to make an oral statement should notify the State Director

(912), BLM, Idaho State Office, 550 W. Fort Street, P.O. Box 042, Boise, Idaho 83724. Early mailing of written statements is encouraged to ensure adequate opportunity for Board consideration.

Further information concerning the meeting may be obtained from the Public Affairs Office, Bureau of Land Management, 550 W. Fort Street, P.O. Box 042, Boise, Idaho 83724. Telephone 208-342-2711, extension 2291.

WILLIAM L. MATHEWS,
State Director.

[FR Doc.76-12767 Filed 4-30-76;8:45 am]

MONTANA STATE OFFICE

Change of Location

Notice is hereby given that the Montana State Office, Bureau of Land Management in Billings, Montana, will change location to the Granite Tower Building, 222 North 32nd Street, Billings, Montana. The new mailing address will be Bureau of Land Management, Montana State Office, Post Office Box 30157, Billings, Montana 59107.

Effective date: This change of location shall become effective at 10 a.m., Monday, May 3, 1976.

All filings subsequent to 4 p.m., Friday, April 30, will be received at the new location. Any applications, payments or other documents received at that location during this period will be deemed as having been simultaneously filed at 10 a.m., May 3, in accordance with Title 43, Code of Federal Regulations, 1821.2; 1821.1; 1821.2-2; 1821.2-3. The filing office at the Federal Office Building will be closed as of 4 p.m., April 30.

EDWIN ZAJDLICZ,
State Director.

[FR Doc.76-12766 Filed 4-30-76;8:45 am]

National Park Service

GLACIER NATIONAL PARK, MONT.

Notification of Snowmobile Route Closures and Public Meetings on Snowmobile Use

This notice is to advise the public of procedures to be taken now and in the near future concerning use of snowmobiles in Glacier National Park in order to satisfy the requirements of Executive Order 11644 (February 9, 1972; 37 F.R. 2877) and 36 CFR 2.34 implementing that order.

The effect of the Executive Order and 36 CFR 2.34 was to close all units of the National Park System to the use of snowmobiles unless specified procedures were followed to designate routes open for such use. At Glacier National Park this regulation was not immediately implemented and snowmobile travel on several previously designated routes was permitted to continue for one winter season after the effective date (May 1, 1974) of the regulation.

During this period, consideration was given to formally designating several snowmobile routes in Glacier National

Park. An environmental assessment was prepared and public comments solicited through newspaper articles. Two public meetings were also held in the vicinity of the Park during November, 1974. However, in this consideration the FEDERAL REGISTER notice required by 36 CFR § 2.34 was not published.

The import of this notice is to renew consideration of whether snowmobile routes should be designated in Glacier National Park. The first step is to bring the present status of snowmobiling within the Park into compliance with the Executive Order and the general regulation. Therefore, notice is given that, as required by 36 CFR 2.34, the use of snowmobiles in Glacier National Park is prohibited. By giving such notice, the status of snowmobiling in the Park simply becomes that which it should have been on May 1, 1974, when the regulation went into effect.

Continuing public interest has been expressed from many quarters on whether snowmobile use should be permitted in the Park. Recognizing this, notice is given that the National Park Service will consider the question again and provide the public another opportunity to comment. To this end, public meetings will be held in the vicinity of the Park during May 1976, and will be followed by a period for submission of written comments by the public. If as a result of public comments and a full analysis of this situation, the Superintendent determines that a designation of snowmobile routes should be proposed, a FEDERAL REGISTER notice describing potential snowmobile routes within the Park will be published and an opportunity given for public comment on the specific proposal.

Location of Meetings: Two meetings will be held to receive comments on snowmobile use in Glacier National Park. These meetings will be held at 7:00 p.m., May 25, 1976, in the Elk's Temple, Highway 93 South, Kalispell, Montana, and at 7:00 p.m., May 27, 1976, in the Rainbow Hotel, 20 Third Street North, Great Falls, Montana. These meetings are being held to provide the widest possible involvement from individuals, organizations, and public officials.

Written statements regarding the subject under discussion at these meetings are also invited. These may be submitted at the public meetings or may be addressed to the Superintendent, Glacier National Park, West Glacier, Montana 59936. The official record for these statements will remain open through June 27, 1976.

Additional information on the public meetings or copies of the environmental assessment may be obtained from the Superintendent at the above address.

Dated: April 28, 1976.

RAYMOND L. FREEMAN,
Acting Associate Director,
National Park Service.

[FR Doc.76-12845 Filed 4-30-76;8:45 am]

DEPARTMENT OF AGRICULTURE

[Marketing Order 905]

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE REGULATING THE HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Public Meetings

Pursuant to the provisions of § 10(a) (2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will hold meetings on May 18 and May 25, 1976, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida.

The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: April 28, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-12813 Filed 4-30-76;8:45 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of Education

FOREIGN LANGUAGE AND AREA
STUDIES FELLOWSHIPS PROGRAMCriteria for Funding Proposals for
Fiscal Year 1976

On pages 4318 and 4319 of the FEDERAL REGISTER of January 29, 1976 there was published a Notice of Proposed Rulemaking which set forth criteria to be used in evaluating applications for a quota of fellowships for Fiscal Year 1976 under section 601(b) of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(b)). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed criteria.

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

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)),

these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program: 13.434 Foreign Language and Area Studies—Fellowships)

Dated: April 7, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 27, 1976.

MAJORIE LYNCH,
Acting Secretary of Health,
Education, and Welfare.

The criteria read as follows:

In addition to evaluation on the basis of the criteria found in the Office of Education General Provisions at 45 CFR 100a.26(b), the Commissioner will evaluate applications for quotas of foreign language and area studies fellowships from institutions of higher education in accordance with the following criteria:

(a) (1) The extent to which an institution which is applying for a quota of fellowships in African studies includes as part of its language and area studies program such disciplines as economics, history, humanities (art, drama, music, philosophy, religion), sociology, and languages other than Swahili;

(2) The extent to which an institution which is applying for a quota of fellowships in East Asian studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, sociology, and humanities;

(3) The extent to which an institution which is applying for a quota of fellowships in East Europe includes as a part of its language and area studies program such disciplines as anthropology, geography, humanities, sociology, and languages other than Russian;

(4) The extent to which an institution which is applying for a quota of fellowships in Latin American studies includes as part of its language and area studies program such disciplines as humanities, sociology, Portuguese, and Amerindian languages;

(5) The extent to which an institution which is applying for a quota of fellowships in Middle Eastern studies includes as part of its language and area studies program such disciplines as anthropology, economics, geography, humanities, political science, sociology, and languages other than Hebrew;

(6) The extent to which an institution which is applying for a quota of fellowships in South Asian studies includes as part of its language and area studies program such disciplines as anthropology, humanities, linguistics, literature, sociology, and geography;

(7) The extent to which an institution which is applying for a quota of fellowships in Southeast Asian studies includes as part of its language and area studies program such disciplines as economics, history, humanities, linguistics, literature, and sociology; and

(8) The extent to which an institution which is applying for a quota of fellowships in Western European studies includes as part of its language and area studies program such disciplines as political economy, sociology, and languages other than French, German, Italian, or Iberian Spanish;

(b) The quality of the institution's existing foreign language and area studies program for the area for which a quota of fellowships is being requested, as evidenced by course offerings, faculty, and library holdings;

(c) The degree to which the institution proposes to have intra-institutional cooperation with other foreign language and area programs and the nature and extent of coordination with the institution's professional schools and other special university programs;

(d) The degree of institutional commitment to the development of the program, as evidenced by faculty appointments, university scholarships and teaching assistantships, and funding of library acquisitions;

(e) The degree requirements of the institution's foreign language and area studies programs with special emphasis on the extent to which that degree requires proficiency in one or more foreign language;

(f) The extent to which the institution's foreign language and area studies program provides extracurricular activities which enhance the student's foreign language proficiency and knowledge of the world area he is studying; and

(g) Lowest priority will be given to applications for fellowships in French, German, Italian or Iberian Spanish.

(20 U.S.C. 511(b).)

[FR Doc.76-12777 Filed 4-30-76;8:45 am]

INTERNATIONAL STUDIES CENTERS

Criteria for Funding Proposals for
Fiscal Year 1976

On pages 5651-5653 of the FEDERAL REGISTER of February 9, 1976, there was published a Notice of Proposed Rulemaking which set forth criteria for funding proposals for Fiscal Year 1976 for financial assistance under section 601(a) of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(a)). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed criteria.

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

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program: 13.435 International Studies Centers)

Dated: April 7, 1976.

T. H. BELL,
U.S. Commissioner of Education.

Approved: April 27, 1976.

MAJORIE LYNCH,
Acting Secretary of Health,
Education, and Welfare.

The criteria read as follows:

(a) In addition to evaluation on the basis of criteria found in the Office of

Education General Provisions 45 CFR 100a.26(b) the Commissioner will further evaluate applications for Federal support to operate international studies centers in accordance with the following criteria:

(1) The quality of the institution's existing instruction for the world area or topic for which Federal assistance is requested, as evidenced by existing course offerings, faculty qualifications, and the nature and extent of relevant library holdings;

(2) The extent to which the proposed instructional activities of the center will strengthen existing international studies at the institution;

(3) The degree of the center's intra-institutional cooperation; i.e., the extent to which cooperative arrangements have been worked out with other departments, schools, and special and professional programs on campus and the extent to which the center includes appropriate multi- and inter-disciplinary instruction;

(4) The amount and percentage of financial support to be provided to the center by the institution during the grant period. Such support may be measured in terms of the number of tenured faculty in the center, the percent of their time spent on the center's program and the extent to which the core program is built into the regular budget of the institution, including the estimated support for the second and third years of the proposed center;

(5) The kinds of performance requirements for students participating in center programs, including regular coursework, language proficiency, overseas experience (residence for study or service), and research in modern foreign languages and area of international studies;

(6) The nature and extent of assistance to be provided by the center for outreach activities in two or more of the following areas, at least one of which shall be either (i) or (ii) below:

(i) Assistance to other institutions of higher education including public and private four-year colleges, particularly those with teacher education programs and two-year colleges;

(ii) Assistance to State and local elementary and secondary educational agencies;

(iii) Assistance to the business community;

(iv) Sharing of resources in the community at large; and

(7) The extent to which provision is made by the institution for overseas experience for faculty and students, and for cooperation with foreign scholars, institutions, and governments.

(b) In order to help achieve a reasonable geographic distribution of Title VI international studies centers throughout the United States the Commissioner will, in awarding grants under this program, take into account the proximity of any proposed center to any other center focusing on the same world area or specialized field of study.

(20 U.S.C. 511(a))

[FR Doc.76-12778 Filed 4-30-76;8:45 am]

PRIVACY ACT OF 1974

System of Records and Notice of Proposed Routine Uses Thereof

Pursuant to the Privacy Act of 1974 (Public Law 93-579) as prescribed in 5 U.S.C. 552a(e)(4), the following notice of a proposed system of records that will be maintained by the Department of Health, Education, and Welfare is published as set forth below.

Prior to the final adoption of the proposed routine uses, consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing on or before the 30th day following the date of publication of this notice.

Public comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 330 Independence Ave. SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 4513, at the above address.

Dated: April 27, 1976.

JOHN OTTINA,
Assistant Secretary for
Administration and Management.

NOTIFICATION OF SYSTEM OF RECORDS— E OE EDR 1

System name: Fellowships for Indian Students—Applications and Awards.
HEW E.

Security classification: None.

System Location:

ROB No. 3, Room 3514, 7th and D Streets SW., Washington, D.C. 20202.

Categories of individuals covered by the system: American Indians who have been accepted by institutions of higher education in a program leading to a professional or graduate degree in law, medicine, engineering, business, forestry, or a related field, and who have applied to OE's Office of Indian Education for a fellowship.

Categories of records in the system: Name, address, phone number, date and place of birth, tribal affiliation, tribal roll number, social security number, sex, marital status, citizenship, names of dependents, educational background, employment background, educational transcripts, references, language abilities, admission test scores.

Authority for maintenance of the system: Indian Education Act of 1972, as amended, P.L. 92-313, Part B, Section 423.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For routine uses set forth in Appendix B to 45 Code of Federal Regulations Part 5b, numbers one through nine; for Field Readers for the purposes of determining eligibility and recommending awardees; selected data for developing brochures describing the fellows and their career goals for public information purposes; and to congressional offices in response to inquiries from those offices made at the request of individuals on whom records are kept.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in hard-copy filed in locked standard file cabinets.

Retrievability: Records are accessed by individual names only by authorized OE staff and Field Readers for the purposes of: determining eligibility; selecting fellows; establishing allowances for stipends, dependents, tuition, and other expenses; determining continued eligibility; and developing profile information regarding recipients of fellowships for program evaluation, planning, reporting, and publicity purposes.

Safeguards: Direct access is restricted to authorized OE staff. Exception: Subject to disclosure requirements of Privacy Act.

Retention and disposal: Records on fellowship holders are sent to the Federal Records Center six months after final payment. They are destroyed by the Federal Records Center three years after final payment. Records on alternatives are maintained for two years. They are then sent to the Federal Records Center where they are destroyed one year later. Application forms from applicants not selected as fellows or alternates are returned to the applicant. Other records on these applicants, containing information on the selection procedure, are maintained for one year and then thrown away.

System manager and address:

Director, Division of Special Projects and Programs, Office of Indian Education, 400 Maryland Avenue SW., ROB-3, Room 3514, Washington, D.C. 20202.

Notification procedure: Contact system manager.

Record access procedures: Contact system manager.

Contesting record procedures: Contact system manager.

Record Source Categories: Information is submitted by the individual applicant on approved forms. References are submitted on approved forms.

System exempted from certain provisions of the Act: None.

[FR Doc.76-12810 Filed 4-30-76;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the Executive Committee of the National Advisory Council on Adult Education will meet on May 19, 1976, from 7:00 p.m. to 10:00 p.m., Council offices, 425 13th Street NW., Suite 323, Washington, D.C. The full Council will meet on May 20, 1976, from 9:00 a.m. to 5:00 p.m., May 21, 1976, from 1:15 p.m. to 4:30 p.m., and May 22, 1976, from 9:00 a.m. to 1:00 p.m. at the Statler Hilton Hotel, Sixteenth and K Streets NW., Washington, D.C.

The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Executive Committee Meeting and Report.
USOE Activities in Adult Education.
Standing Committee Reports.
Discussions on Futures for Improving the Quality of Adult Learning.
Election of Officers.
FY-77 Organizational Plans.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004).

Signed at Washington, D.C. on April 27, 1976.

GARY A. EYRE,
Executive Director, National
Advisory Council on Adult
Education.

[FR Doc. 76-12765 Filed 4-30-76; 8:45 am]

Food and Drug Administration

[Docket No. 76N-0057]

CERTAIN COMBINATION PRESCRIPTION DRUG PRODUCTS CONTAINING A XANTHINE DERIVATIVE

Drugs for Human Use; Drug Efficacy Study Implementation; Permission for Drugs To Remain on the Market

Correction

In FR Doc. 76-10230, appearing on page 15053 in the issue of Friday, April 9, 1976 make the following changes:

On page 15053 in the second column, the second full paragraph, should have been set in all capital letters.

On page 15053 in the third column, the third line in paragraph numbered (2.) should have read "theophylline (130 mg), phenobarbital (8)"

On page 15053 in the third column, the last full paragraph above the signature, the third line should have read "505, 701, 52 Stat. 1052-1053, as amended."

Food and Drug Administration

[FDA-225-576-2002]

SHIPMENT OF FOODS, DRUGS, AND COSMETICS; EXCHANGE OF INFORMATION

Memorandum of Understanding With the Interstate Commerce Commission

The Food and Drug Administration is announcing that a Memorandum of Understanding has been executed with the Interstate Commerce Commission on April 14, 1976. The purpose of the memorandum is to provide a mechanism for the exchange of information concerning the shipment of food, drug, and cosmetic commodities by all carriers under the jurisdiction of the Interstate Commerce Commission.

Pursuant to the announcement published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing this notice. The Memorandum of Understanding with the Interstate Commerce Commission reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE INTERSTATE COMMERCE COMMISSION AND THE FOOD AND DRUG ADMINISTRATION

I. Background and Purpose. The Interstate Commerce Commission (ICC) is charged with regulating interstate carriers in transportation economics and service. In regulating transportation economics, the ICC primarily settles controversies over rates and charges among competing forms of transportation, shippers and receivers of freight, passengers, and others. It also has jurisdiction over the use, control, supply, movement, distribution, exchange, interchange, and return of railroad equipment.

The ICC grants the right to operate to railroads, trucking companies, bus lines, freight forwarders, water carriers, and transportation brokers.

The legal authority under which the ICC conducts regulatory activities is given by the Interstate Commerce Act (49 U.S.C. prec. 1 note), the Motor Carrier Act (49 U.S.C. 301), and the Transportation Acts of 1920 (41 Stat. 456) and 1940, (49 U.S.C. 65, 66) and other related acts.

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 (21 U.S.C. 321 et seq.) and sections 311, 361, and 368 of the Public Health Service Act (42 U.S.C. 243, 264, 271). In fulfilling its responsibilities under these acts, FDA's activities are aimed at protecting the nation's public health by ensuring that foods, drugs, and cosmetics are safe and wholesome, and otherwise meet all requirements of the acts mentioned above. These responsibilities are carried out in part by inspecting those places where rail cars or trucks

are loaded or unloaded and inspecting foods and products in transit on these carriers.

The two agencies have certain related objectives in carrying out their respective responsibilities, and it is agreed that the objective of protecting the consumer by preventing the introduction, transmission, or spread of communicable disease requires that the statutory authorities, procedures, and other resources are employed to afford maximum protection. This will require exchange of information to the extent provided by law as well as the careful selection of these procedures of both agencies that promise the greatest benefit to the public.

This memorandum of understanding is to provide a mechanism for the exchange of information concerning the shipment of food, drug, and cosmetic commodities by all carriers under the jurisdiction of the ICC. Those commodities that have been or may have been contaminated can be removed from the market place, and the possibility of contaminating foods, drugs, or cosmetics will be reduced if timely information is exchanged between the FDA and the ICC.

To provide for the exchange of complete information so that both agencies will be used to the maximum effectiveness in the public interest, each agency will designate a liaison officer to serve as a central contact. These liaison officers will be responsible for informing each other of their agency's proposed procedures and internal activities in the areas of common interest.

II. Substance of Agreement. To facilitate the purpose of this agreement, it is specifically agreed that:

A. The ICC will provide to FDA information or reports of occurrences uncovered during routine activities that may indicate a possible violation of the Food, Drug, and Cosmetic Act and all other statutes administered by FDA.

B. The FDA will provide to the ICC information and reports that may indicate a possible violation of the Interstate Commerce Act and any other statutes that the ICC is responsible for carrying out.

C. Both agencies will:

1. Maintain close working relations with each other, both in headquarters and in the field.

2. Cooperate jointly and with industry in the improvement of sanitation and food-handling practices on rail cars and trucks.

3. Exchange procedures and techniques used in determining compliance with the appropriate regulations promulgated by each agency.

4. Cooperate in the enforcement efforts, thereby avoiding duplication of efforts, to assure the full safety and health protection of the public.

III. Name and Address of Participating Federal Agencies. A. For ICC: Liaison Officer—Mr. Thomas J. Byrne, Assistant to the Director, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Ave.,

NW., Washington, DC 20423, Telephone number: (202) 343-7648.

B. For FDA: Liaison Officer—Mr. Richard S. Nacewicz, Chief, Interstate Travel Sanitation Branch, Food and Drug Administration, Bureau of Foods, 200 C St., SW., Washington, DC 20204, Telephone number: (202) 245-1505.

IV. *Meetings to be Held.* The respective liaison officers will hold meetings from time to time, but not less than annually, to discuss matters of concern to each agency, and they will be accompanied by whatever staff is necessary and appropriate.

V. *Period of Agreement.* A. This Agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent in writing by both parties, or terminated by either party upon thirty (30) days advance written notice.

B. This agreement will be reviewed annually by both agencies to ensure that it is still appropriate and that the terms and provisions are current.

C. Nothing in this agreement is intended to diminish or otherwise affect the authority of either agency to carry out its respective statutory function.

Approved and accepted for the Food and Drug Administration:

By: Alexander M. Schmidt, M.D.
Title: Commissioner of Food and Drugs.

Date: April 14, 1976.

Approved and accepted for the Interstate Commerce Commission:

By: George M. Stafford.
Title: Chairman, Interstate Commerce Commission.

Dated: April 14, 1976.

Effective date: This Memorandum of Understanding became effective April 14, 1976.

Dated: April 27, 1976.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.76-12734 Filed 4-30-76; 8:45 am]

**National Institute of Education
NATIONAL COUNCIL ON EDUCATIONAL
RESEARCH
Meeting**

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on May 28, 1976, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9:30 a.m. and adjourn at 3:30 p.m.

The National Council on Educational Research is established under Section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The entire meeting will be open to the public. The tentative agenda is as follows:

A.M.	
9:30 to 10:00	Convene.
10:00 to 10:30	Director's Report.
10:30 to 11:00	NIE relationships with R&D institutions.
11:00 to 11:30	Report of Progress on Council mandated studies.
11:30 to 12:00	Discussion of policy issues about dissemination.
P.M.	
12:00 to 12:15	Discussion of proposals to amend NCER Committee structure.
12:15 to 1:15	Lunch.
1:15 to 2:15	Description and discussion of NIE Congressionally mandated study of compensatory education.
2:15 to 3:00	Fiscal year 1978 planning.
3:00 to 3:30	Report of NCER Executive Committee.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below.

Requests to address the Council meeting should be submitted in writing to the Chairman and the Executive Secretary at least ten days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council Policy (NCER Resolution No. 013074-8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Executive Secretary. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Executive Secretary, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research,
National Institute of Education, Washington, D.C. 20208, Telephone: 202-254-7900.

Dated April 27, 1976.

HAROLD L. HODGKINSON,
Director,
National Institute of Education.

[FR Doc.76-12768 Filed 4-30-76; 8:45 am]

**National Institutes of Health
DIAGNOSTIC RESEARCH ADVISORY
GROUP
Meeting**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Diagnostic Research Advisory Group, National Cancer Institute, May 18, 1976, Building 31, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20014.

This meeting will be open to the public on May 18, 1976, from 8:30 a.m. to 11:00 a.m. to discuss possible new areas of research and other business related to the general cancer diagnosis program. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552 (b) (4) and 552 (b) (6), Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public on May 18, 1976, from 11:00 a.m. to adjournment for the review and discussion of approximately twelve (12) contract renewal proposals. The contract proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Office, NCI.

Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of meetings and rosters of committee members.

Mr. Louis P. Greenberg, Executive Secretary, Building 31, Room 3A10, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1591) will furnish substantive program information.

Dated: April 27, 1976.

SUZANNE L. FREMEAUX,
Committee Management Officer, NIH.
(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health.)

[FR Doc.76-12884 Filed 4-30-76; 8:45 am]

**Office of the Secretary
RADIATION SAFETY SHIELD SYRINGE
Proposed Issuance of Exclusive License**

Pursuant to Section 6.3, 45 CFR, Part 6, notice is hereby given of intent to issue a limited-term, revocable, exclusive, patent license in and to an invention of Harold W. Tipton entitled "Radiation Safety Shield Syringe."

Any objection thereto, together with request for opportunity to be heard, if desired, should be directed to Theodore Cooper, M.D., the Assistant Secretary for Health, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C., 20201, within thirty (30) days of the date of publication of this notice. Interested parties may obtain a copy of the patent application directed to this invention upon

request in writing to the party hereinabove named.

Dated April 22, 1976.

AUTHORITY: 45 CFR 6.3.

JAMES F. DICKSON,
Acting Assistant
Secretary for Health.

[FR Doc. 76-12718 Filed 4-30-76; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-073]

PORT OF NEW YORK

Temporary Local Regulations

Correction

In FR Doc. 76-11663, appearing at page 16855, in the issue for Thursday, April 22, 1976, make the following change; on page 16856, in the first column, paragraph (h) the twelfth line should be changed to read "itude 40°49' 25.5" North, Longitude 73°"

Federal Highway Administration

BAYONNE BRIDGE, GEORGE WASHINGTON BRIDGE, GOETHALS BRIDGE, AND OUTERBRIDGE

Crossing Tolls

By motion filed April 16, 1976, the AAA Club of New York and New Jersey seek postponement of procedural dates set forth on April 9, 1976. Responses in support thereof have been received from Honorable Peter A. Peyser; Honorable John M. Murphy; Mrs. Albert Lamb, Jr.; Mr. Sol Weil; National Council of Salesmen's Organizations, Inc.; Citizens for Clean Air, Inc.; and New Jersey Motor Truck Association. No objections have been received.

Upon consideration of the matter the following procedural dates are established:

Prehearing Conference (unchanged), May 4, 1976.

Exchange of direct written testimony and exhibits, no later than July 1, 1976.

Exchange of rebuttal written testimony and exhibits, if any, no later than July 26, 1976.

Public Hearing, August 9, 1976.

Ground Rules. The ground rules set forth in Appendix A will be observed in this case. They should be read carefully. At the request of some of the parties, the Judge has prepared a list of persons to be served with information responses and exhibits based on the appearance sheets. The list is contained in Appendix B.

The order of proceeding at the hearing will be as follows (each group in alphabetical order):

1. Proponent of the Increase.
2. Protestants.
3. Public Counsel.

JOHN E. FAULK,
Administrative Law Judge,
Office of Judges, 800 Independence Ave. SW., Washington, D.C. 20594.

GROUND RULES

1. Cross-examination, except by Public Counsel, will be limited to witnesses whose testimony is adverse to the party desiring to cross-examine.

2. Second rounds of cross-examination will not be permitted.

3. Cross-examination of any particular witness, oral presentation on any motion or objection, will be limited to one attorney for a party.

4. All evidence, including so-called written testimony, shall be in written exhibit form filed in advance,¹ with competent witnesses to be made available for cross-examination. Witnesses shall have available at the hearing the work papers used in preparing their exhibits. Witnesses will not be permitted to read prepared testimony into the record. The evidentiary record should be limited to factual matters, and argument should be presented in the briefs.

5. The authenticity of all documents submitted as proposed exhibits in advance of the hearing will be deemed admitted unless written objection thereto is filed prior to the hearing. (E.g., absent objection, if an exhibit purporting to be a copy of a letter mailed on a certain date were submitted, it would not be necessary to prove such mailing or the accuracy of the copy.)

6. Exhibits shall be exchanged on prescribed dates prior to the hearing. One copy of each exhibit shall be sent to every party and one copy to the Administrative Law Judge.

Exhibits shall include appropriate footnotes or narrative explaining the source of the information in the document and the methods used in statistical compilations and estimates. The explanatory detail should be sufficient to permit reconstruction of estimates from basic data.

Where one part of a multi-page document is based upon another part, appropriate cross-reference shall be made. For example, a profit and loss forecast based on detailed estimates appearing on other pages should contain specific references showing which pages support the different individual items of the statement. Exhibits shall be arranged in an organized manner in accordance with the party's theory of the case, and each separate exhibit shall be prenumbered in series.

Every party shall submit a list of its exhibits and the name of the sponsoring witness for each exhibit no later than the rebuttal exhibit exchange date.

At the hearing, every party will be required to present two fully corrected copies of its exhibits offered in evidence.

7. These rules are deemed consistent with the orderly conduct of this proceeding. Exceptions to any rule may be made upon good cause shown.

SERVICE LIST

Honorable Peter A. Peyser, House of Representatives, Washington, D.C. 20515.

Mr. Stanley D. Ver Nooy, 241 Larch Avenue, Bogota, New Jersey 07603.

Mr. William K. Duncan, Chairman, AAA Clubs of New Jersey, 901 Tilton Road, Northfield, New Jersey 08225.

¹ Direct evidence of the matters to be proved in this proceeding, including testimony of witnesses, can ordinarily be reduced to exhibit form at the exhibit-exchange date and evidence as to events occurring after the exhibit-exchange date can be brought in by a revision of exhibits, but revisions shall be limited to such situations. It is recognized that evidence from an adverse witness can not be reduced to writing, nor can cross-examination.

Joseph Lesser, Esquire, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.
Myron B. Wolf, Executive Director, National Council of Salesmen's Organizations, Inc., 127 John Street, New York, New York 10038.

Honorable Linda Winikow, New York Senate, Albany, New York 12224.

Albert R. Lamb, Jr., M.D., 161 Fort Washington Avenue, New York, New York 10032.

Honorable Benjamin A. Gilman, House of Representatives, Washington, D.C. 20515.

Diana W. Rivet, County Attorney, The County of Rockland, County Office Building, 11 New Hempstead Road, New City, New York 10956.

Frank J. Blondillo, D.D.S., Councilman at Large, City Council of New York, 5 Keegans Lane, Staten Island, New York 10308.

Honorable Matthew Feldman, Majority Leader, New Jersey Senate, 790 Grange Road, Teaneck, New Jersey 07666.

Honorable Albert Burstein, Assemblyman, New Jersey Senate, 26 Journal Square, Jersey City, New Jersey 07306.

Honorable Byron Baer, Assemblyman, New Jersey Senate, 420 Lantana Avenue, Englewood, New Jersey 07632.

Jeffrey C. Cohen, Esquire, Vice President, Citizens For Clean Air, Inc., 25 Broad Street, New York, New York 10004.

Lawrence Berman, Esquire, Transway International Corporation, 747 Third Avenue, 38th Floor, New York, New York 10017.

Robert N. Rickles, P.E., Ph.D., Executive Director, Institute for Public Transportation, 211 East 43rd Street, New York New York 10017.

Thaddeus Raczkowski, Esquire, New Jersey Motor Truck Association, Benedict and Orban, The Castle, 433 River Road, Highland Park, New Jersey 08904.

Mr. Charles J. Murphy, Automobile Club of New York, 28 East 78th Street, New York, New York 10021.

Mrs. Julia F. Lamb, 301 Lydecker Street, Englewood, New Jersey 07631.

Mr. James E. Reynolds, President, Staten Island Chamber of Commerce, 130 Bay Street, Staten Island, New York 10301.

Ms. Toni L. Goldfarb, 263 Pine Street, Teaneck, New Jersey 07666.

Honorable John M. Murphy, House of Representatives, Washington, D.C. 20515.

Mr. George W. Hofmann, 166 Lafayette Avenue, Chatham, New Jersey 07928.

Ms. Phoebe Hahn, 964 Mountain Avenue, Berkeley Heights, New Jersey 07922.

Mr. Roy E. Frenze, 706 Ellington Road, Ridgewood, New Jersey 07450.

Mr. Sol Weil, 18 Linderwood Court, Washington Township, Westwood, New Jersey 07675.

Mr. James J. Stapleton, Assistant Chief Counsel for Motor Carrier and Highway Safety Law, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

Mr. Gerald M. Tierney, Office of Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

Francis A. Mulhern, Esquire, Deputy General Counsel, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Brian T. Ketcham, P.E., Vice President & Staff Engineer, Citizens for Clean Air, Inc., 25 Broad Street, New York, New York 10004.

[FR Doc. 76-12781 Filed 4-30-76; 8:45 am]

[Docket No. 76-6]

BIKEWAY DEMONSTRATION PROGRAMS**Proposed Negative Declaration/4(f)
Determination**

• Purpose. In this document the Federal Highway Administration (FHWA) gives notice of and solicits comment on a proposed negative declaration of environmental significance under the National Environmental Policy Act, 42 U.S.C. 4332, and a proposed determination of the Federal Highway Administrator under section 4(f) of the Department of Transportation Act, 49 U.S.C. 1653(f), for that class of bikeway projects in the Bikeway Demonstration Program which may affect public parks, recreation areas, wildlife and waterfowl refuges, and historic sites, where the official having jurisdiction over the affected property has approved the project and has determined the project will not cause harm to the property. The Bikeway Demonstration Program was authorized by section 119 of the Federal-Aid Highway Amendments of 1974, P.L. 93-643. This action is proposed under regulations appearing at 39 F.R. 35232-35246 (September 30, 1974) and 23 CFR Part 771. •

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1653(f)) provides that the Secretary may not approve any program or project requiring the use of any public land from a significant public park, recreation area, or wildlife and waterfowl refuge or any land from a significant historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm. The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) requires an environmental impact statement for "every recommendation or request on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment."

It is felt that a single statement for all bikeway demonstration projects approved by the appropriate officials is proper and appropriate, as these projects will improve or enhance the recreational features of the lands described in section 4(f), and there are no feasible and prudent alternatives to these projects in these areas. Further, to require a statement for each project would frustrate the accomplishment of the objectives of the legislation to construct bikeways, cause meritorious projects to be dropped because of red tape, deprive certain areas of desired recreational features, and have a general negative environmental impact.

Therefore, in accordance with the law, the Federal Highway Administrator proposes to make a determination that the bikeways to be constructed under the Bikeway Demonstration Program (section 119 of the Federal-Aid Highway

Amendments of 1974, P.L. 93-643) are deemed not to have a significant effect upon the quality of the human environment and that no feasible and prudent alternatives to the use of section 4(f) lands are deemed to exist in conjunction with the construction of bikeways having the written approval of the official having jurisdiction of said lands. The approvals shall contain a statement that the bikeway location and design have been accomplished in a manner not to cause harm to the property.

The negative declaration and 4(f) statement upon which the Federal Highway Administrator proposes to base his determination appears below. Interested persons are invited to comment on the statement and proposed determination. Comments should be submitted in triplicate to the Office of the Chief Counsel, Room 4230, FHWA Docket No. 76-6, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Comments received before May 20, 1976, will be considered before final action is taken on this proposal.

Issued on: April 23, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

A NEGATIVE DECLARATION/SECTION 4(f) STATEMENT FOR BIKEWAY DEMONSTRATION PROJECTS UNDER PUBLIC LAW 93-643

BACKGROUND

Section 119 of the Federal-Aid Highway Amendments of 1974, Public Law 93-643, authorized grants to the States for demonstration projects for the construction of bikeways. Regulations for administration of the Bikeway Demonstration Program are contained in Volume 6, Chapter 9, Section 14 of the Federal-Aid Highway Program Manual, codified as Part 663 of Chapter 1 of Title 23 of the Code of Federal Regulations (41 FR 8344, dated February 26, 1976).

The purpose of this demonstration program is to provide additional Federal funding for bikeways and to promote bicycling as a safe and viable alternative mode of transportation for commuter and/or recreational use in urban or urbanized areas. Selection of projects to be funded will be based upon demonstration value and the potential for nationwide application of new ideas for bikeways.

A total of \$6 million in Federal funds is available for this program. It is anticipated that as many as 90 projects may be funded and that a substantial number of these projects will be located on property requiring consideration under Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1653f).

PROJECT DESCRIPTION

Design and construction standards for these projects will be those contained in the American Association of State Highway and Transportation Officials' "Guide for Bicycle Routes." Reasonable deviations will be permitted by the Federal Highway Administration (FHWA) in the interest of demonstrating innovations in bikeway design.

Typical usage of a bikeway located in a park, recreation area, wildlife refuge, or historic site will be for recreation with additional utilization for commuting. Usage will be limited to bicycles and pedestrians and

volumes will vary depending upon population densities, recreational attractions, etc., of the urban area in which the individual bikeways are constructed.

It is required that a public agency be responsible for maintenance of each federally-funded bikeway.

APPLICATION

This negative declaration/Section 4(f) statement is applicable to Bikeway Demonstration Program projects which are to be constructed in publicly owned parks, recreation areas, wildlife and waterfowl refuges, or in historic sites, regardless of ownership status. Additionally, this document is applicable only when the official having specific jurisdiction over the Section 4(f) property has given his approval in writing, that the project is acceptable and consistent with the designated use of the property and that the location and design have been accomplished in a manner that will not cause harm to the property.

SUMMARY

There is no feasible and prudent alternative to the use of Section 4(f) properties for projects funded under the Bikeway Demonstration Program because the bikeways are recreational facilities and are properly a normal part of the development of these properties. Artificially routing a bikeway around a Section 4(f) property would decrease the recreational value of the bikeway.

The written approval of the official having specific jurisdiction over the Section 4(f) property and construction authorization by FHWA will confirm that the bikeway location and design have been accomplished in a manner not to cause harm to the property.

Noise and air quality will not be affected due to bicycles which will be using the proposed facilities.

Temporary impacts on water quality will be minimal. Erosion control measures will be used throughout the construction of the bikeways. Due to the narrow cross-section of the bikeways, a minimal amount of clearing will be required. The bikeways will be blended into the existing terrain to reduce any visual impacts.

Displacement of families or businesses will not be required.

No significant adverse social or economic impacts are anticipated. There would be beneficial impacts such as the enhancement of the recreational potential of the parks and the provision of an alternate mode of transportation for the commuter.

Based on the above and on the scope of these bikeway projects, it is determined that they will not have a significant effect upon the quality of the human environment.

[FR Doc.76-12782 Filed 4-30-76;8:45 am]

**Federal Railroad Administration
ARIZONA**

**State Participation Program During
Fiscal Year 1976**

This is to give notice pursuant to section 212.21 of the State Participation Regulations published by the Federal Railroad Administration (FRA) as Part 212 of Title 49 of the Code of Federal Regulations (40 FR 55508) that the State of Arizona is participating in the investigative and surveillance activities prescribed by the Federal Railroad Administrator as necessary for the enforcement of the FRA Railroad Freight Car Safety Standards.

¹ 23 U.S.C. 138 contains identical language.

The Arizona Corporation Commission has been certified to carry out a safety program with respect to the Safety Inspection required under the Railroad Freight Car Safety Standards (49 CFR 215.23) pursuant to the provisions of the State Participation Regulations (49 CFR 212) during fiscal year 1976, commencing April 27, 1976.

This notice is published under the authority of sections 202 and 206 of the Federal Railroad Safety Act of 1970 (84 Stat. 971, 45 USC 421 et seq.), section 1.49(n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)), and section 212.21 of the regulations of the Federal Railroad Administration (49 CFR 212.21).

Issued in Washington, D.C. on April 27, 1976.

EDWARD F. CONWAY, JR.
Acting Assistant Chief Counsel,
Safety Regulation Division.

[FR Doc. 76-12715 Filed 4-30-76; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 14592, etc.; Order 76-4-155]

PHILIPPINE AIR LINES, INC. ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of April, 1976.

Application of Philippine Air Lines, Inc., for an amended foreign air carrier permit, Docket 14592; application of Philippine Air Lines, Inc., for an amended foreign air carrier permit, Docket 21502; application of Air Manila, Inc., for a foreign air carrier permit, Docket 23926.

A review of open dockets has revealed that the three captioned applications by two Philippine air carriers are stale and that the circumstances underlying the applications may have changed substantially in the intervening years. Therefore, the Board tentatively finds and concludes that the applications should be dismissed without prejudice to refiling, with appropriate supporting data, in new dockets.

Philippine Air Lines holds a foreign air carrier permit issued pursuant to Order E-17953, approved January 22, 1962, authorizing transportation between a point or points in the Philippines and San Francisco via the intermediate point Honolulu. Its applications in Dockets 14592 and 21502, respectively, sought (1) the addition of Tokyo as an intermediate point and Los Angeles as a conterminal point and (2) the addition of Guam as an intermediate point. A motion for hearing was filed on May 1, 1973, but no action thereon has been taken. Air Manila is the holder of a temporary permit authorizing charter foreign air transportation between the Philippines and the United States pursuant to Order 75-5-6, approved April 30, 1975. Its application in Docket 23926 requested authority to engage in scheduled operations between Manila and Tokyo via Guam.

Because of the age of these applications, the improbability that they can be set for hearing, and the absence of any indication that the applicants are still interested in securing the authority in question, the Board tentatively concludes that the applications should be dismissed. Retention of the applications in these circumstances would be inconsistent with the orderly administration of the Board's business.

Accordingly, it is ordered That: 1. Philippine Air Lines, Inc., be and it hereby is directed to show cause why the Board should not issue an order making final the tentative conclusions stated herein and dismissing its applications in Dockets 14592 and 21502;

2. Air Manila, Inc., be and it hereby is directed to show cause why the Board should not issue an order making final the tentative conclusions herein and dismissing its application in Docket 23926;

3. Objections to the issuance of an order making final all or part of the tentative conclusions herein shall be filed within 30 days of adoption of this order and shall set forth specifically the factual or policy issues upon which the objections rely and answers to the objections shall be filed 10 days thereafter;

4. If timely and properly supported objections are filed, further consideration will be accorded the matters raised before further action is taken by the Board: Provided, That the Board may proceed to enter an order in accordance with the tentative conclusions herein if it determines that there are no factual or policy issues presented that warrant different conclusions;

5. In the event that no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative conclusions set forth herein; and

6. Copies of this order shall be served upon Philippine Air Lines, Inc., Air Manila, Inc., Pan American World Airways, Inc., the Honorable Ambassador of the Republic of the Philippines and the Department of State.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-12789 Filed 4-30-76; 8:45 am]

[Order 76-4-156; Docket 13318]

POLYNESIAN AIRLINES LIMITED

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of April 1976.

Application of Polynesian Airlines Limited for an amended foreign air carrier permit.

A review of open dockets has revealed that the captioned application is still pending before the Board. The applicant is the holder of a permit, issued pursuant

to Order E-14935, approved February 18, 1960, 30 C.A.B. 588, which authorizes foreign air transportation between the terminal point Faleolo, Western Samoa, and the terminal point Tafuna, American Samoa. At the time that the permit was issued, Western Samoa was a trust territory administered by the Government of New Zealand which had designated Polynesian Airlines to serve the route in question. In anticipation of Western Samoa's attainment of independence on January 1, 1962, Polynesian filed its application in Docket 13318 out of concern that the change in status of Western Samoa might invalidate the permit. However, by Diplomatic Note dated January 2, 1962, Western Samoa formally succeeded to the obligations and responsibilities of New Zealand to the extent pertinent to the terms and conditions of Polynesian's permit.

Since the permit has never been amended to reflect the foregoing circumstances, the Board proposes to do so by this order. We tentatively find and conclude: (a) that Polynesian is substantially owned and effectively controlled by nationals of Western Samoa; (b) that the carrier is fit, willing, and able to perform properly the foreign air transportation proposed in its application¹ and to conform to the provisions of the Federal Aviation Act of 1958 and the rules, regulations of the Board thereunder; (c) that the public interest requires the issuance of an amended foreign air carrier permit in the form attached hereto;² and (d) that an evidentiary hearing is not required in the public interest. Because of the lapse of time since the application was filed and the change in status of Western Samoa, we are directing the carrier to supply updated information regarding its ownership. Absent such information, there would be insufficient basis to finalize our tentative finding that Polynesian is substantially owned and effectively controlled by nationals of Western Samoa.

Accordingly, it is ordered that: 1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an amended foreign air carrier permit in the form attached hereto should not be issued to Polynesian Airlines Limited, subject to the approval of the President pursuant to section 801 of the Act;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein and issuing an amended foreign air carrier permit shall, within 30 days after adoption of this order, file with the Board and serve upon the persons named in paragraph 6 below a statement specifying the part or parts of the tentative findings and conclusions

¹ Polynesian has operated over its authorized route continuously since receiving its permit in 1960.

² The conditions in the permit, including the insurance conditions, have been changed to conform with more recent Board practice.

or permit deemed objectionable and stating the specific grounds for such objections, supported by statistical data and other materials and evidence relied upon;^{*} answers to the objections shall be filed 10 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board: Provided, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event that no objections are filed, all further procedural steps shall be deemed waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. Within the time allotted for filing objections in this proceeding Polynesian Airlines Limited shall file a statement containing the following information:

- (a) Place and date of incorporation;
- (b) Name, citizenship and principal residence of each person holding more than five percent of the authorized stock of the company; and
- (c) Name, citizenship and principal residence of each director and each executive management employee of the company; and

6. Copies of this order shall be served upon Polynesian Airlines Limited, Pan American World Airways, Inc., the Government of Western Samoa (Apia, Western Samoa) and the Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

PERMIT TO FOREIGN AIR CARRIER (As Amended)

POLYNESIAN AIRLINES LIMITED

is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to persons, property, and mail, as follows:

Between the terminal point Faleolo, Western Samoa, and the terminal point Tafuna, American Samoa.

The holder hereof shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

The holder hereof shall conform to the airworthiness and airman competency requirements prescribed by the Government of Western Samoa for Western Samoan international air service.

^{*} Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Western Samoa shall be parties.

This permit shall be subject to the condition that in the event any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

The holder shall keep on deposit with the Board a signed counterpart of C.A.B. Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in C.A.B. Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on _____: Provided, however, That, if the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Western Samoa are or shall become parties, then and in that event, this permit is continued in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board and the seal of the Board affixed hereto, on the

[FR Doc. 76-12790 Filed 4-30-76; 8:45 am]

[Order 76-4-154 et al.]

REEVE ALEUTIAN AIRWAYS, INC. ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of April, 1976.

Application of: Reeve Aleutian Airways, Inc., for amendment of its certificate and for exemption authority, Docket 17232; Complaint and Petition for Investigation of R. C. Motor Lines, Inc., Docket 18780; Petition of Seaboard World Airlines, Inc., Docket 23273.

A review of open dockets has revealed that the three captioned applications and petitions are stale and that the circumstances underlying them may have changed substantially in the intervening years. Therefore, the Board tentatively finds and concludes that the applications should be dismissed without prejudice to refiling, with appropriate supporting data, in new dockets.

Docket 17232 contains an application by Reeve Aleutian Airways for amendment of its certificate for Route 127 to add Pauloff Harbor as an intermediate point and for extension of exemption authority pendente lite. While the certificate application can be dismissed as stale pursuant to Rule 911 of these Rules of Practice, the exemption application cannot. Presently, Reeve holds exemption authority to serve Pauloff Harbor pursuant to Order E-21014, June 30, 1964, but provides no service. The authority survives today solely by virtue of section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), as embodied in Part 377 of the Board's Special Regulations. Dismissal of the application in Docket 17232 will terminate Reeve's outstanding authority at Pauloff Harbor. In view of the dormant state of the exemption authority, we tentatively find that termination of this authority is in the public interest.

Docket 18780 contains a complaint by R. C. Motor Lines against Delta Air Lines and Eastern Air Lines and a petition for an investigation of the direct air service, or lack thereof, provided by these carriers between Columbia, S.C., and Jacksonville, Fla. At present, Delta provides one daily nonstop round trip and numerous on-line connecting flights in the market. There has been no recent indication that this service is unacceptable or that R. C. Motor Lines has any further complaint with respect to the service in the market.

Docket 23273 contains a petition of Seaboard World Airlines for the Board to invoke Part 213 of the Economic Regulations against British Overseas Airways Corp. (now British Airways) in retaliation for restrictions imposed upon Seaboard by the British Government. The Board is not aware that the difficulties prompting the petition remain unresolved nor that Seaboard has any further interest in pursuing the matter.

Because of the age of these pleadings, the improbability that they can be set for hearing and the apparent lack of interest in further prosecution, the Board tentatively concludes that the application and petitions should be dismissed. Retention of these cases under the circumstances described would be inconsistent with the orderly administration of the Board's business.

Accordingly, it is ordered That: 1. Reeve Aleutian Airways, Inc., R. C. Motor

Lines, Inc., and Seaboard World Airlines, Inc., be and they hereby are directed to show cause why the Board should not issue an order making final the tentative conclusions herein and dismissing their respective applications, complaints or petitions in Dockets 17232, 18780, and 23273;

2. Objections to the issuance of an order making final all or part of the tentative conclusions herein shall be filed within 30 days of adoption of this order and shall set forth specifically the factual or policy issues upon which the objections rely, and answers to objections shall be filed ten days thereafter;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters raised before further action is taken by the Board: Provided, That the Board may proceed to enter an order in accordance with the tentative conclusions herein if it determines that there are no factual policy issues presented that warrant different conclusions;

4. In the event that no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative conclusions set forth herein; and

5. Copies of this order shall be served upon Reeve Aleutian Airways, Inc., R. C. Motor Lines, Inc., Seaboard World Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., British Airways, the Department of State and the Honorable Ambassador of the United Kingdom.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 76-12788 Filed 4-30-76; 8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS REPUBLIC OF KOREA

Adjusting Import Level for Certain Cotton Textile Products Under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement

APRIL 28, 1976.

On September 30, 1975, there was published in the FEDERAL REGISTER (40 FR 44862) a letter dated September 25, 1975 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975 between the Governments of the United States and the Republic of Korea, which establish specific export limitations on certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on

October 1, 1975. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 6 of the agreement which provides that within the aggregate and applicable group limits, specific levels of restraint may be increased by designated percentages.

Accordingly, pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of April 28, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the level of restraint applicable to cotton textile products in Category 18/19/26 (printcloth) for the twelve-month period which began on October 1, 1975.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance
U.S. Department of Commerce.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On September 25, 1975 the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning October 1, 1975 and extending through September 30, 1976 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(a) (1) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on April 28, 1976, the level of restraint estab-

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975 between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint within Categories 1-38, part of 63 (shoe uppers), 64, 200-213, and 241-243 may be exceeded by 10 percent; within Categories 39-62, part of 63 (other than shoe uppers), and 214-240, by 7 percent; and within Categories 101-132, by 5 percent; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

lished for Category 18/19/26 (printcloth) to the following amount:

Category	Amended 12-month level of restraint ²
18/19/26 (printcloth) ³	square yards... 5,934,562

² The level of restraint has not been adjusted to reflect any entries made after September 30, 1975.

³ In Category 26, the T.S.U.S.A. Numbers for printcloth are:

320...34	322...34	327...34
321...34	326...34	328...34

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance,
U.S. Department of Commerce.

[FR Doc. 76-12763 Filed 4-30-76; 8:45 am]

MEXICO

Establishing Import Levels for Certain Cotton and Man-Made Fiber Textile Products, Effective May 1, 1976

APRIL 28, 1976.

On May 12, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and Mexico concluded a comprehensive bilateral agreement concerning exports of cotton, wool and man-made fiber textile products from Mexico to the United States over a period of three years beginning on May 1, 1975 and extending through April 30, 1977. The agreement was amended on March 16, 1976 to establish a specific level of restraint for Category 223 and, pursuant to paragraph 4(b) of the agreement, to set the levels of restraint for Categories 9/10, 22/23, and 26/27 for the agreement year beginning on May 1, 1976. The agreement, as amended, also includes provision for specific levels of restraint for man-made fiber textile products in Categories 219, 224, 225, 229, 235, and 238 for the agreement year beginning on May 1, 1976. All categories not subject to specific levels of restraint are covered by consultation levels.

Accordingly, there is published below a letter of April 28, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of

Customs directing that for the twelve-month period beginning on May 1, 1976 and extending through April 30, 1977 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 22/23, 26/27, 26 (duck), and 39, and man-made fiber textile products in Categories 219, 223, 224, 225, 229, 235, and 238 be limited to the designated levels.

This letter and the actions taken pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on May 1, 1976 and for the twelve-month period extending through April 30, 1977, entry into the United States for consumption of cotton textile products in Categories 9/10, 22/23, 26/27, 26 (duck), and 39, and man-made fiber textile products in Categories 219, 223, 224, 225, 229, 235, and 238, in excess of the following levels of restraint:

Category	12-month level of restraint
9/10 -----	17,000,000 square yards.
22/23 -----	25,000,000 square yards.
26/27 -----	16,000,000 square yards (of which not more than 9,000,000 square yards may be in duck fabric). ³
39 -----	567,054 dozen pairs.
219 -----	523,693 dozen.
223 -----	656,250 dozen.
224 -----	2,213,974 pounds.
225 -----	1,929,895 dozen.
229 -----	157,055 dozen.
235 -----	320,217 dozen.
238 -----	917,022 dozen.

³ In Category 26 the T.S.U.S.A. Numbers for duck fabric are:

- 320.—01 through 04,06,08
- 321.—01 through 04,06,08
- 322.—01 through 04,06,08
- 326.—01 through 04,06,08
- 327.—01 through 04,06,08
- 328.—01 through 04,06,08

In carrying out this directive, entries of cotton textile products in Categories 9/10, 22/23, 26/27, and 39, and man-made fiber textile products in Categories 219, 224, 225, 229, 235, and 238, produced or manufactured

in Mexico and exported to the United States prior to May 1, 1976, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period May 1, 1975 through April 30, 1976. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Man-made fiber textile products in Category 223, produced or manufactured in Mexico and exported to the United States before May 1, 1976, shall not be subject to this directive.

Man-made fiber textile products in Category 223 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future pursuant to the provisions of the bilateral agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 F.R. 5010), as amended on December 31, 1975 (40 F.R. 60220).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mexico and with respect to imports of cotton, wool and man-made fiber textiles from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-12764 Filed 4-30-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

The General Advisory Committee Solicits Nominations for the 1976 Enrico Fermi Award

The General Advisory Committee to the U.S. Energy Research and Development Administration invites all members of the public to submit nominations for the 1976 Enrico Fermi Award.

The Fermi Award is given on the approval of the President, not more frequently than annually, to an individual for exceptional and altogether outstanding scientific and technical achievement in the development of atomic energy. The award consists of a citation and a monetary prize, not to exceed \$25,000 to any one individual. The Fermi Award is international in scope, available to scientists of all nations.

Nominations for the next award should be received by the Chairman, General Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545, not later than July 1, 1976. A Nomination Form may be obtained by writing to the above address or by calling AC 202-376-4678.

FISHER HOWE,
Secretary.

MAY 1, 1976.

[FR Doc.76-12159 Filed 4-30-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF PRIVATE GRIEVANCES AND REDRESS

Week of March 26 Through April 2, 1976

Notice is hereby given that during the week of March 26 through April 2, 1976, the petition for special redress listed in the Appendix to this notice was filed with the Federal Energy Administration's Office of Private Grievances and Redress.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in this case may file with the FEA written comments on the petition within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

APRIL 9, 1976.

**APPENDIX.—List of cases received by the Office of Private Grievances and Redress—
Mar. 26 to Apr. 2, 1976**

Date	Name and location of applicant	Case No.	Type of submission
Mar. 31, 1976...	Crown Central Petroleum Corp., Baltimore, Md. (If grants: Region III's special report order of Mar. 1, 1976, would be rescinded and Crown Central Petroleum Corp. would not be required to submit the report.)	FSG-0022	Special redress request which would relieve Crown Central of the requirements of region III's special report order.

[FR Doc.76-12727 Filed 4-28-76;11:29 am]

**CASES FILED WITH THE OFFICE OF
EXCEPTIONS AND APPEALS**

Week of March 26 Through April 2, 1976

Notice is hereby given that during the week of March 26 through April 2, 1976, the appeals and applications for exceptions or other relief listed in the Appendix to this notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action

sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

APRIL 9, 1976.

APPENDIX.—List of cases received by the Office of Exceptions and Appeals Mar. 26 to Apr. 2, 1976

Date	Name and location of applicant	Case No.	Type of submission
Mar. 26, 1976...	Exxon Corp., Washington, D.C. (If granted: Exxon Corp.'s obligation to sell crude oil on the FEA refiners' buy/sell list would be reduced.)	FEE-2349	Allocation exception (sec. 211.65).
Do.....	Peoples Gas Co., Chicago, Ill. (If granted: Peoples Gas Co. would receive additional crude oil.)	FEE-2348	Exception to FEA's Canadian crude oil allocation regulations.
Mar. 29, 1976...	Asamera Oil, Inc., Denver, Colo. (If granted: Asamera Oil, Inc., would receive exceptions from various FEA regulations to enable it to acquire a refinery from 1st General Resources Co. and the Refinery Corp.)	FEE-2359	Exceptions regarding the proposed acquisition of a refinery.
Do.....	Commonwealth Oil Refining Co., Inc., Washington, D.C. (If granted: Commonwealth Oil Refining Co., Inc., would be permitted to pass through the cost of import fees imposed by the Commonwealth of Puerto Rico on sales of refined products exclusively in Puerto Rico.)	FEE-2358	Price exception (sec. 212.83).
Do.....	Cook's Flying Service, Iowa Park, Tex. (If granted: Cook's Flying Service would receive an increase in its base-period use of aviation fuel based on increased use of its facilities.)	FEE-2357	Exception to increase its base-period use.
Do.....	Exxon Corp., Washington, D.C. (If granted: FEA's Feb. 13, 1976, decision and order granting New England Petroleum Corp. entitlement relief would be rescinded.)	FEA-0790	Appeal of FEA's exception decision and order in New England Petroleum Corp. 3 FEA par. 83,101 (Feb. 12, 1976).
Do.....	James M. Cunningham, Inc., Lafayette, La. (If granted: Crude oil produced from the Bayou Mallet Field, Julia Richard No. 1, Acadia Parish, La., could be sold at upper-tier ceiling prices.)	FEE-2350	Price exception (sec. 212.74).
Do.....	Kahan Pipe & Supply Co., Tulsa, Okla. (If granted: Crude oil produced from the Fast Lease, Reno County, Kans., would be sold at upper-tier ceiling prices.)	FEE-2354	Do.
Do.....	Malleable Iron Range Co., Beaver Dam, Wisc. (If granted: The exception relief from the provisions of 10 CFR 215.3 granted to Malleable Iron Range Co. in FEA's June 19, 1975, decision and order would be extended.)	FEE-2351	Extension of the relief granted in FEA's decision and order in Malleable Iron Range Co., Inc., 2 FEA par. 83,189 (June 19, 1975).
Do.....	McIntosh Propane, McIntosh, S. Dak. (If granted: McIntosh Propane would be assigned a new, lower priced supplier of propane to replace its base-period supplier Petro-Lane Intermountain Supply, Inc.)	FEE-2355	Exception to change suppliers.
Do.....	San Joaquin Refining Co., Oildale, Calif. (If granted: San Joaquin Refining Co. would receive an exception to the old oil entitlements program.)	FEE-2356	Exception to the old oil entitlements program.
Do.....	Shell Oil Co., Houston, Tex. (If granted: Shell Oil Co.'s entitlement obligation would be adjusted for previous reporting errors (resubmission of FEE-2324).)	FEE-2353	Do.
Do.....	V1 Oil Co., Idaho Falls, Idaho. (If granted: V1 Oil Co. would receive an exception to the old oil entitlements program.)	FEE-2353	Do.

Date	Name and location of applicant	Case No.	Type of submission
Mar. 31, 1976...	Howell Corp., Houston, Tex. (If granted: Howell Corp. would receive an exception from the requirements of the old oil entitlements program.)	FEE-2363	Do.
Do.....	Marvin E. Boyer Oil Co., Iola, Kans. (If granted: FEA's Jan. 30, 1976, decision and order would be rescinded and Marvin E. Boyer Oil Co. would be able to sell crude oil at exempt prices.)	FEA-0794	Appeal of FEA's exception decision and order in Marvin E. Boyer Oil Co., 3 FEA par. 83,088 (Jan. 30, 1976).
Do.....	OKC Corp., Washington, D.C. (If granted: OKC Corp. would receive an exception from the old oil entitlements program.)	FEE-2365	Exception to the old oil entitlements program.
Do.....	S. & K. Oil Co., Tulsa, Okla. (If granted: Crude oil produced from the Cook-Dacon lease, Seminole County, Okla., would be sold at upper-tier ceiling prices.)	FEE-2360	Price exception (sec. 212.74).
Do.....	South Hampton Co., Silsbee, Tex. (If granted: South Hampton Co. would receive an exception from the requirements of the old oil entitlements program.)	FEE-2362	Exception to the old oil entitlements program.
Do.....	Sun Oil Co., Philadelphia, Pa. (If granted: Sun Oil Co. would receive additional entitlements for its Felda crude oil runs.)	FEE-2361	Do.
Do.....	Taft, Stettinius and Hollister, Cincinnati, Ohio. (If granted: Taft, Stettinius, and Hollister, would receive access to certain documents which it previously requested.)	FEA-0795	Appeal of freedom of information request.
Do.....	Warrior Asphalt Co. of Alabama, Tuscaloosa, Ala. (If granted: Warrior Asphalt Co. of Alabama would be permitted to allocate its increased crude oil costs in a manner different from that specified in sec. 212.83.)	FEE-2366	Price exception (sec. 212.83).
Do.....	Win-Air Aviation Services, Falls City, Nebr. (If granted: Win-Air Aviation Services would receive an increase in its base-period use of aviation gasoline based on unusual growth.)	FEE-2367	Exception to increase its base-period use.
Do.....	Young Refining Co., Douglasville, Ga. (If granted: Young Refining Co. would receive an exception from the requirements of the old oil entitlements program.)	FEE-2364	Exception to the old oil entitlements program.
Apr. 1, 1976....	Central Hight Unit, Washington, D.C. (If granted: Crude oil produced by the Central Hight Unit would be sold at upper-tier ceiling prices.)	FEE-2373	Price exception (sec. 212.74).
Do.....	Department of the Navy, Moffett Field, Calif. (If granted: The Department of the Navy would be supplied motor gasoline by Standard Oil Co. rather than Mobil Oil Corp. during the months July through December.)	FEE-2370	Exception to change suppliers.
Do.....	Doric Petroleum, Inc. (Enid), Washington, D.C. (If granted: Doric Petroleum, Inc. (Enid), would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of \$0.005/gal.)	FEE-2371	Price exception (sec. 212.165).
Do.....	Doric Petroleum, Inc. (Newcastle), Washington, D.C. (If granted: Doric Petroleum, Inc. (Newcastle), would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of \$0.005/gal.)	FEE-2372	Do.
Do.....	Good Hope Refineries, Inc., Metairie, La. (If granted: Good Hope Refineries, Inc., would receive an exception from the requirements of the old oil entitlements program.)	FEE-2369	Exception to the old oil entitlements program.
Do.....	McAlester Fuel Co., Magnolia, Ark. (If granted: Crude oil produced from the State lease 508, well No. 1, would be sold at upper-tier ceiling prices.)	FEE-2368	Price exception (sec. 212.74).

[FR Doc.76-12728 Filed 4-28-76; 11:30 am]

CANADIAN CRUDE OIL ALLOCATION

Availability of Final Environmental Impact Statement

The Federal Energy Administration (FEA) announces the publication and availability of the final environmental impact statement, prepared pursuant to Section 102(2)(C) of the National Environment Policy Act, 42 U.S.C. sec. 4332 (2)(C), concerning the operation of regulations to allocate dwindling supplies of Canadian crude oil, 10 C.F.R. Part 214. That program provides for a priority allocation system insuring first call on Canadian crude oil imports for those refiners and end-user utilities which have no alternative source of crude oil supply, and distributes any shortage evenly among those refiners and end-users.

Single copies of the final environmental impact statement may be obtained from the FEA, Office of Communications and Public Affairs, Room 3138, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the statement will also be available for public review in the FEA Information Access Reading Room, Room 3136, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Interested persons are invited to submit data, views, or arguments with respect to the statement to Executive Communications, Room 3309, Federal Energy Administration, Box GU, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Final EIS—Canadian Allocation." Fifteen copies should be submitted. All comments should be received by FEA by May 15, 1976, in order to receive full considerations.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., April 28, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-12729 Filed 4-28-76; 3:50 pm]

CONFERENCE TO DISCUSS PLAN FOR DEVELOPING OIL AND GAS RESERVES INFORMATION IN THE U.S.

Public Meeting

Notice is hereby given that issues involved in the FEA developing oil and gas reserves information in the U.S. will be discussed at a meeting to be held on May 27, 1976, from 9:00 a.m. to 5:00 p.m. (and, if necessary, continuing on May 28, 1976 from 9:00 a.m. to 12:00 noon). The meeting will be held in Conference Room B, Departmental Auditorium, Old Labor Department Building, Constitution Avenue between 12th and 14th Streets, N.W., Washington, D.C.

U.S. oil and gas reserves information has recently been obtained by several Federal agencies, including the Federal Energy Administration (FEA). In addition, reserves information is prepared and released by private organizations.

FEA has continuing responsibilities to obtain and publish such reserves information, pursuant to the Energy Supply and Environmental Coordination Act of 1974, as amended. In order to better carry out this obligation, FEA is attempting to develop a systematic approach to preparing oil and gas reserves data on a continuing basis.

Objectives of the approach are to develop a reasonable and comprehensive oil and gas information system which will:

1. Meet the needs of Congress, Federal agencies, industry and the general public by providing consistent reserves data for policy guidance and operational decisions.

2. Eliminate duplication and minimize the burden on those supplying the basic data. (Needs of States, Federal agencies, private industries and the general public will be considered.)

3. Develop information having an acceptable degree of accuracy through appropriate methodologies.

4. Strike a balance between cost to industry and the government and needs for timeliness, accuracy and detail.

Issues to be addressed in developing this approach include:

1. The adequacy of reserves data obtained by FEA in its 1975 survey (Oil and Gas Reserves Study), prepared under Section 15(b) of the FEA Act, P.L. 93-275.

2. Alternative bases for reporting such as ownership, field, reservoir.

3. The adequacy of previously used definitions and additional data items.

4. Accuracy and reliability of methods involving reserve estimation under different pricing conditions.

5. Desirability of and technical manpower requirements for estimating reserves and additions to reserves under

differing wellhead prices for crude oil and natural gas.

6. An appraisal of costs to industry and Government of obtaining reserves estimates.

7. Feasibility of combining the data needs of the Federal Government and the public into a single Government survey.

8. Alternative methods of providing estimates of crude oil and natural gas reserves data needed by the Government.

9. Confidentiality treatment which should be afforded to reserves data.

10. All other relevant questions pertaining to crude oil and natural gas reserves.

Following the May 27-28, 1976 meeting, a draft plan setting out an approach for generating the reserves information package will be developed and published in the Federal Register. This plan will be based on needs and recommendations made by members of governmental agencies, Congressional committees, private industry, and members of the public.

A thirty-day period will be allowed for comments on the plan; written comments will be considered. A final plan will then be developed and implemented.

Any person wishing to participate in the discussions of the issues pertaining to the development of the plan may attend the public meeting to be held on May 27 and 28 at the Departmental Auditorium.

Members of the public who wish to make oral statements should contact FEA in writing (Mr. Gilbert M. Rodgers, Office of Oil and Gas Analysis, FEA, 12th & Pa. Ave., N.W., Room 4420, Washington, D.C. 20461) at least five days before the meeting and reasonable provisions will be made for their appearance on the agenda. Any member of the public who wishes to file a written statement will be permitted to do so either before or after the meeting.

A transcript of the public meeting held on May 27-28 will be made available for inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on April 28, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc. 76-12800 Filed 4-28-76; 4:32 pm]

FEDERAL POLICY ON LIQUEFIED NATURAL GAS (LNG) IMPORTS

Public Hearings

The Federal Energy Administration (FEA), on behalf of the Energy Resources Council (ERC), hereby announces that it will conduct a public hearing in Los Angeles on Liquefied Natural Gas (LNG) import policy, particularly as it impacts the West Coast of the United States.

In his energy message of February 26, 1976, the President stated that imports of LNG could be expected to grow to supplement our declining domestic supply of natural gas and he directed the

Energy Resources Council to establish procedures for reviewing proposed LNG projects both on economic and national security grounds. In response to the Presidential directive, the ERC has created a task force to establish procedures for the consideration of LNG issues such as regional import dependence, source of supply, pricing, government financial assistance, and reassessment of a 1985 target level of one trillion cubic feet per year, if circumstances warrant. In addition, the effect of LNG import policy on local areas is of interest to the task force.

In conducting its analysis, the ERC is interested in obtaining input from all concerned persons. At this hearing special consideration will be given to unique West Coast problems. The ERC and FEA are particularly interested in obtaining at the hearing data, views, and arguments on the following questions:

SOURCES OF SUPPLY

What will be the likely characteristics of the LNG market in 1985? Who will be exporters and importers? Will a spot market develop?

What will be the sources of supply to the West Coast in 1985?

DEPENDENCY ON IMPORTS

What are the key factors to consider in determining acceptable levels of vulnerability in terms of:

- Individual exporting countries.
- Transmission pipelines.
- U.S. geographic regions.

What is the interaction between LNG imports and potential Alaska natural gas delivery systems?

What alternative energy supply sources are available to backstop LNG imports in the event of a cutoff?

How do proposed LNG imports relate to the distribution of petroleum and natural gas in PAD 5 and to the energy balance of that region?

PRICING AND GOVERNMENT ASSISTANCE

What are likely price levels for LNG imports? What mechanisms exist to stabilize these prices?

Is government financial assistance an important factor with regard to LNG import ventures?

ERC ROLE IN REVIEWING PROJECT

What should be the extent of ERC involvement, i.e., should it play a policy or direct authority role?

OTHER ISSUES

What other regional factors might relate to the ability to import LNG?

The public hearing will be held at 9:00 a.m. on May 13, 1976 in the Los Angeles Board of Public Works, Room 350, City Hall, 200 North Spring Street, Los Angeles, California 90006. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation

at the hearing. Such a request should be directed to the Federal Energy Administration, Region IX, 111 Pine Street, San Francisco, California 94111, Attention: LNG Hearings, and must be received before 4:30 p.m. p.d.s.t., May 6, 1976. Such a request may be hand delivered to the same address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why she or he is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through May 8, 1976. Each person selected to be heard will be so notified by FEA before 4:30 p.m., p.d.s.t., May 8, 1976 and should submit 100 copies of his or her statement to the Federal Energy Administration, Los Angeles, 3660 Wilshire Boulevard, Suite 800, Los Angeles, California 90010 before 4:30 p.m., p.d.s.t., May 11, 1976.

FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentation and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary type hearings, and there will be no cross-examination of persons presenting statements.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearings, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 3116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday and at the Region IX Office of the Federal Energy Administration. Any person may purchase a copy of the transcript from the reporter.

Interested persons who do not intend to participate in the hearing, or who wish to submit additional information, are invited to submit written data, views, or arguments with respect to the subject matter set forth in this notice to Federal Energy Administration, Region IX, 111 Pine Street, San Francisco, California 94111. Attention: LNG Hearings. Ten copies should be submitted.

All comments received by May 13, 1976 and all relevant information, will be considered by the Federal Energy Administration. Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to the determination.

Issued in Washington, D.C., April 30, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-12984 Filed 4-30-76;11:03 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES, INC., AND
LYKES BROS. STEAMSHIP 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 May 24, 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:

Richard W. Kurrus, Esq., Kurrus and Jacobi, 2000 K Street, N.W., Washington, D.C. 20006.

Agreement No. 10231 is an agreement between American Export Lines, Inc. (AEL), on the one hand, and Lykes Bros. Steamship Co., Inc. (LYKES), on the other, whereby AEL agrees to limit its application before the Maritime Administration to expand its subsidized service outbound from ports in South Carolina, Georgia and Florida to ports in North Africa to a maximum of fifteen sailings annually and Lykes agrees to withdraw its protest to AEL's application subject to its being so amended and subject to approval of this Agreement.

By Order of the Federal Maritime Commission.

Dated: April 27, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-12783 Filed 4-30-76;8:45 am]

[Docket No. 75-35]

CITY OF ANCHORAGE AND SEA-LAND SERVICE, INC. ET AL.

Environmental Negative Declaration

Agreement Nos. T-1685 as amended and T-1685-6: Between the City of Anchorage and Sea-Land Service, Inc.; and Agreement No. T-3130: Between the City of Anchorage and Totem Ocean Trailer Express, Inc.

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis has determined that the environmental issues relative to the referenced docket 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 NEPA.

It was concluded that the proposed action will have no significant adverse impact on biotic factors, water and air quality, fuel consumption, human ecology, water and land carrier congestion, dredging and construction at the Anchorage City (City Dock). The proceeding basically involves two Agreements for preferential use of berth and terminal properties of the City of Anchorage which were filed with the Commission for approval under Section 15 of the Shipping Act, 1916. The City of Anchorage filed Agreement No. T-1685-6 into which it entered with Sea-Land Service, Inc. The City also filed Agreement No. T-3130 into which it entered with Totem Ocean Trailer Express, Inc.

This determination was based on the Staff's preparation and consideration of a Threshold Assessment Survey which is available for inspection or request from the Public Information Office, Room 11413, Federal Maritime Commission, Washington, D.C. 20573, telephone 202-523-5764.

Any person disagreeing with the Negative Declaration shall have ten (10) days within which to note exceptions to the Commission by filing exceptions to the Negative Declaration with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. No final Commission action shall be taken before June 2, 1976. If the Commission fails to otherwise act within twenty (20) days following the time provided for the filing of exceptions to the Negative Declaration, the determination of the Office of Environmental Analysis will be adopted by the Commission as its final determination of environmental issues.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-12787 Filed 4-30-76;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, (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.

C.S.E. Consolidating Services Inc., 49-01 2nd Avenue, Brooklyn, New York 11232. Officers: A. Maurice Gerb, Treasurer; Nathan Cohen, Secretary; Lawrence Rein, President.

James E. Jones, Jr. dba Export International, 3780 Starlighter Drive, Virginia Beach, Virginia 23452.

Gilberto S. Perello dba Unicorn Shipping Co., 1728 SW 12th Street, Miami, Florida 33135. Vijaya Maldonado, P.O. Box 012444, Miami, Florida 33101.

By the Federal Maritime Commission.

Dated: April 28, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-12785 Filed 4-30-76;8:45 am]

PACIFIC INDONESIAN 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, 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 May 24, 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:

H. R. Rollins, Secretary, Pacific/Indonesian Conference, 635 Sacramento Street, San Francisco, California 94111.

Agreement No. 6060-18, entered into by the member lines of the Pacific/Indo-

nesian Conference amends Article 1 of the conference agreement to provide for the issuance of a conference tariff covering through intermodal movements of cargo from points in the United States and Canada to ports or points in the Republic of Indonesia. Notwithstanding the above, member lines may publish their own individual intermodal tariffs covering traffic from points at Atlantic and Gulf ports and adjacent land carrier terminals and from any other point or points in the U.S. or Canada to the aforesaid destination ports or points until the conference adopts and effectuates a tariff or tariffs which includes such traffic.

By Order of the Federal Maritime Commission.

Dated: April 28, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-12784 Filed 4-30-76; 8:45 am]

SHAW SAVILL & ALBION CO. LTD.

Order of Revocation

Shaw Savill & Albion Company Limited (Shaw Savill Line), 14-19 Leadenhall Street, London EC3V 1NP, England.

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-99 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,094.

Whereas, Shaw Savill & Albion Company Limited (Shaw Savill Line) has ceased to operate the passenger vessel *Ocean Monarch*; and

Whereas, Certificate (Performance) No. P-99 and Certificate (Casualty) No. C-1,094 issued to Shaw Savill & Albion Company Limited (Shaw Savill Line) have been returned for revocation.

It is ordered, That Certificate (Performance) No. P-99 and Certificate (Casualty) No. C-1,094 covering the *Ocean Monarch* be and are hereby revoked effective April 22, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission April 22, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-12786 Filed 4-30-76; 8:45 am]

FEDERAL POWER COMMISSION

[Projects Nos. 67 and 120]

SOUTHERN CALIFORNIA EDISON CO.

Availability of Staff Draft Environmental Impact Statement

Notice is hereby given in the captioned Projects, that on or about April 30, 1976, as required by Section 2.81(b) of Commission Order No. 415-C, a draft environmental impact statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with the

environmental impact of applications for new licenses for Project No. 67 (Big Creek No. 2A and 8) and Project No. 120 (Big Creek No. 3), and an amendment to the application for Big Creek No. 3 Project No. 120, all filed pursuant to the Federal Power Act. These projects are located on both the South Fork and the San Joaquin River, in the counties of Fresno, Madera, Tulare, Kern, and Los Angeles, California, with tunnels and conduits transecting the area to divert waters to facilities situated to the south and within the area formed by the two rivers.

The Big Creek No. 2A and No. 8 Project consists of (1) the Tombstone Creek Diversion Dam; (2) Crater Creek Diversion Dam; (3) a 7,260-foot conduit diverting water from Crater Creek into (4) Florence Lake Reservoir; (5) the North Slide Creek Diversion Dam; (6) the South Slide Diversion Dam; (7) the Bear Creek Diversion Dam; (8) the Hooper Creek Diversion Dam; (9) the Cinquapin Creek Diversion Dam; (10) Mono Creek Diversion Dam; (11) the Bear Creek Diversion Dam; (12) the Camp Creek Dam; (13) the Bolsillo Creek Diversion Dam; (14) the Pitman Creek Diversion Dam; (15) the Shaver Lake Dam; (16) Big Creek Powerhouse No. 2A containing two 40,000 kW generators; (17) Big Creek Powerhouse No. 8 containing two generating units rated 27,000 kW and 31,500 kW respectively; (18) appurtenant facilities.

The existing Big Creek No. 3 Project No. 120 consists of: (1) Dam No. 6; (2) Dam No. 6 Reservoir; (3) an unlined diversion tunnel; (4) four steel penstocks; (5) Big Creek No. 3 powerhouse with 6 generating units with a total installed capacity of 107,700 kW; (6) the 225-mile long Vincent transmission line; and (7) appurtenant facilities. The proposed amendment to Big Creek No. 3 Project would include an additional generating unit of 35,000 kW capacity.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 and at its San Francisco Regional Office located at 555 Battery Street, San Francisco, California 94111. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before June 14, 1976.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with Section 2.81(c) of Order No. 415-C.

All petitions to intervene must be filed on or before June 14, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12758 Filed 4-30-76; 8:45 am]

[Docket No. RP76-11]

BACA GAS GATHERING SYSTEM, INC.

Order Accepting and Approving Settlement PIPELINE AND PRODUCER RATES— SETTLEMENT

APRIL 26, 1976.

On February 18, 1976, Baca Gas Gathering System, Inc. (Baca) tendered for filing a proposed Stipulation and Settlement Agreement in this docket which would resolve all the issues involved in this proceeding. Based upon the Commission's review of the filing and its finding that the proposed settlement is just and reasonable we shall accept the proposed settlement and permit it to become effective.

The proposed Stipulation and Settlement Agreement tendered by Baca on February 18, 1976 arises from Baca's filing of September 12, 1975 in this docket in which it tendered for filing a revised tariff sheet¹ which would increase annual jurisdictional rates by \$262,000 for sales to Panhandle Eastern Pipe Line Company (Panhandle). The proposed rates therein tendered were designed to track the increased cost of purchased gas from WECO Development Corporation (WECO) to the level prescribed by Commission Opinion No. 742.

The Commission, finding that the proposed rates reflected small producer purchases in excess of the rate levels prescribed by Opinion No. 742, accepted Baca's proposed changes for filing, suspended their effectiveness for one day, and instituted an investigation under Section 5 of the Natural Gas Act.

The parties to the proceeding and the Commission Staff subsequently commenced settlement negotiations which resulted in the proposed Stipulation and Settlement Agreement tendered by Baca on February 18, 1976. In order to conform their gas sales contract to Opinion No. 742, Baca and WECO have revised their Gas Purchase and Sales Agreement. The revision specifically limits the contract rate to the formula specified in Opinion No. 742, namely 130% of the applicable national or area rate. Accordingly, the proposed settlement agreement provides an amendment to Baca's First Revised Sheet No. 3-A, Volume 3 of its FPC Gas Tariff. The revised tariff sheet reflects a rate of 40.26¢ per Mcf for all gas produced from wells drilled prior to January 1, 1973 (old gas) and 58.67¢ per Mcf for all gas produced from wells drilled after January 1, 1973. (new gas).²

¹ First Revised Sheet No. 3-A, Original Volume No. 3 of FPC Gas Tariff.

² These rates were computed by applying the 130% differential to the base applicable area or national rate (35¢ per Mcf for old gas and 51¢ per Mcf for new gas) and adjusting this rate for Btu content and taxes.

The proposed Stipulation and Settlement also states that, although the Commission's October 10, 1975 order in this docket permitted Baca to collect the suspended rates subject to refund, the rates have not yet been charged by either WECO or Baca. The settlement states therefore that no refunds will be required.²

Public notice of the proposed settlement was issued on March 1, 1976, with all petitions, protests, or comments due on or before March 9, 1976. On March 8, 1976 the Commission staff filed comments in support of the proposed settlement and requested the Commission to approve the settlement and terminate the docket.

The Commission's review of the proposed Stipulation and Settlement and the rates contained therein indicates that it is a just and reasonable resolution of the issue involved in this proceeding. We shall therefore accept and approve the tendered settlement and make it effective October 15, 1975, the date this Commission permitted the proposed rates to become effective. Since it appears, by sworn affidavit, that the originally-filed increase was not charged or collected by Baca it is unnecessary to order refunds to be made.

The Commission finds: It is necessary and appropriate in the public interest that the proposed Stipulation and Settlement tendered in this docket by Baca on February 18, 1976 be approved as a just and reasonable resolution of the issues in this proceeding.

The Commission orders: (A) The proposed Stipulation and Settlement tendered in this docket by Baca on February 18, 1976 is hereby accepted and approved and permitted to become effective October 15, 1975, in accordance with its terms.

(B) Within thirty (30) days of the issuance of this order Baca shall file, as part of its FPC Gas Tariff, Original Volume 3, its First Revised Sheet No. 3-A in accordance with this settlement order.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12752 Filed 4-30-76; 8:45 am]

[Docket No. ER76-556]

BOSTON EDISON CO.
Supplemental Filing

APRIL 26, 1976.

Take notice that Boston Edison Company (Edison), on April 16, 1976, submitted additional information intended to complete its March 10, 1976 filing of a rate schedule to provide transmission

² Pursuant to a request of the Commission Staff, Baca, by letter of March 8, 1976 to the Commission's Secretary, filed an affidavit of Mr. N. Bruce Calder, President of Baca, testifying that Baca had not to date charged or collected the higher rate.

service to the Braintree Electric Light Department. The additional information was submitted in response to a deficiency letter dated April 9, 1976. Edison requests that the proposed rate schedule be permitted an effective date of April 1, 1976.

Any person desiring to be heard or to protest said supplemental filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12754 Filed 4-30-76; 8:45 am]

[Docket Nos. CI75-601; RI76-82]

BRIGHT & SCHIFF

Order Consolidating Proceedings, Accepting Settlement, and Granting Petition for Special Relief

APRIL 26, 1976.

Bright & Schiff has sought, alternatively, permission to either abandon its current sale at 16.5 cents per Mcf or obtain special relief from the area rate up to a level of 78.6 cents per Mcf. For the reasons stated hereafter, we grant the petition for special relief at the 78.6 cents per Mcf rate.

On April 9, 1975, Bright & Schiff filed an application pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon its sale to South Texas Natural Gas Gathering Company (So-Tex) from the Reynolds No. 1 Well, Whitted Field, Hidalgo County, Texas, pursuant to a November 1, 1958 contract. So-Tex purchases the gas for 16.5 cents per Mcf and resells it to Transcontinental Gas Pipe Line Corporation under a contract dated February 17, 1959.

On November 10, 1975, the Commission issued in Docket No. CI75-601 an order setting the question of abandonment authorization under Section 7(b) for hearing. During the pendency of this proceeding, all parties were able to agree on a settlement of the controversy that required Bright & Schiff to withdraw its petition for abandonment, install the compression facilities necessary to continue production, and apply for special relief pursuant to Section 2.76 of the Commission's regulations at an agreed upon rate of 78.6 cents per Mcf.¹ The proposed settlement was certified to the

¹ The rate sought by Bright & Schiff does not reflect the increase in tax liability, if any, resulting from the Tax Reduction Act of 1975.

Commission by the Presiding Administrative Law Judge on December 3, 1975, and notice thereof was issued by the Commission on February 3, 1976. No comments on the proposed settlement were submitted.

On December 12, 1975, Bright & Schiff filed in Docket No. RI76-82 the petition for special relief called for in the settlement. Notice of this petition was issued January 5, 1976, and appeared in the FEDERAL REGISTER on January 16, 1976, at 41 FR 2442. No protests or petitions to intervene were filed.

All parties, including the Staff, concur that the 78.6 cents per Mcf is necessary in order to produce the 69,300 Mcf of net working interest gas remaining to be recovered over a two-year period. Bright & Schiff and So-Tex have amended their November 1, 1958 contract to provide for the 78.6 cents per Mcf rate. After careful review of the costs to be incurred and the reserves to be recovered, we conclude that it is in the public interest to approve the proposed settlement and grant the petition for special relief.

The Commission finds: The settlement proposal submitted in Docket Nos. CI75-601 and the petition for special relief filed in Docket No. RI76-82 should be consolidated for disposition, the settlement approved, and the petition granted.

The Commission orders: (A) The proceedings in Docket Nos. CI75-601 and RI76-82 are consolidated for disposition.

(B) The settlement proposal in Docket No. CI75-601 is accepted and the petition for special relief in Docket No. RI76-82 is granted.

(C) The December 4, 1975 amendment to the November 1, 1958 contract is accepted for filing effective as of the date of this order, and the 78.6 cents per Mcf rate is effective as of the date compression facilities are installed and made operational as proposed in the settlement agreement.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12750 Filed 4-30-76; 8:45 am]

[Docket No. ER76-157]

CAMBRIDGE ELECTRIC LIGHT CO.
Deferring Procedural Dates

APRIL 26, 1976.

On April 4, 21, 1976, Staff Counsel filed a motion to defer the procedural dates pending Commission action on the proposed settlement. The motion states that all parties concur in this request.

Notice is hereby given that the procedural dates in the above matter are deferred pending further order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12745 Filed 4-30-76; 8:45 am]

[Docket No. RP73-115]

CONSOLIDATED GAS SUPPLY CORP.**Proposed Change in FPC Gas Tariff**

APRIL 26, 1976.

Take notice that on April 15, 1976, Consolidated Gas Supply Corporation (Consolidated) 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. RP73-115 a proposed change in its FPC Gas Tariff Second Revised Volume No. 1, consisting of First Revised Sheet No. 34 superseding Original Sheet No. 34, proposed to be made effective March 16, 1976. Consolidated states that the only change in its present curtailment plan effected by the proposed change in its tariff is to reflect "storage sprinkling" by excluding from Category 2 buyers' storage injection requirements during the base period and instead spreading such requirements in any month to all categories based on the percentage of requirements served by storage withdrawals in each of such categories in the months when storage withdrawals exceed storage injections. Consolidated states further that this change is in accordance with Article III of the settlement agreement in the instant docket dated June 12, 1975, which was approved by order of March 16, 1976.

Any person desiring to be heard or to make any protest with reference to said tariff change should on or before May 19, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-12755 Filed 4-30-76;8:45 am]

[Docket No. E-9294]

DETROIT EDISON CO.**Order Accepting Settlement Agreement**

APRIL 26, 1976.

On January 14, 1976 the Presiding Administrative Law Judge in this proceeding certified to the Commission a settlement agreement (Agreement) together with the record in this case. The settlement agreement would resolve all issues presently unresolved in the docket. The Commission finds that the Agreement is in the public interest and accepts and approves it subject to certain conditions hereinafter specified.

Notice of the certification was issued January 28, 1976 with comments due on or before February 17, 1976. Commission

Staff filed comments which supported the Agreement.

Docket No. E-9294 was opened on February 28, 1975 when Detroit Edison Company (Edison) filed a rate increase to certain wholesale customers.¹ Edison's proposed rates would yield increased revenues of \$7,751,000 based on a test year ending December 31, 1975. In a series of orders the Commission (1) rejected the rate increase as it applied to Southeastern and Thumb² and (2) rejected the increase as it applied to Clinton,³ Croswell,⁴ Sebawaing,⁵ and Consumers⁶ but instituted a hearing pursuant to Section 206 of the Federal Power Act with respect to the rates of the latter customers.

The major elements of the Agreement are as follows:

(1) An overall revenue increase of \$4,444,000 rather than the \$7,751,000 originally proposed;

(2) A rate reduction and refund at 9% per annum to Michigan Municipal Power Pool;

(3) An increase in rates to the other customers effective April 1, 1976;

(4) A moratorium on future rate increases to be made effective before November 1, 1976.

Review of the record demonstrates that the rates are supported by cost evidence⁷ and that the rates are just and reasonable. Accordingly, approval and adoption of the Agreement is in the public interest.

In conjunction with acceptance and approval of the Agreement the Commission shall require Edison to (1) refund amounts collected in excess of the settlement rates, together with interest calculated at the rate of 9% per annum, (2) submit revised rate schedules, and (3) file refund compliance reports.

The Commission finds: The Agreement certified to the Commission by the Presiding Administrative Law Judge in this proceeding should be accepted and approved as hereinafter conditioned.

The Commission orders: (A) The settlement agreement certified to the Commission in this docket is hereby approved and accepted subject to the following conditions.

(B) Detroit shall file within 30 days of the issuance of the order rate schedules appropriate to reflect terms of the Agreement.

(C) Detroit shall refund, within 30 days after the rate schedules required in (B), supra are accepted for filing, all amounts collected in excess of the settlement rates with interest at 9% per annum.

(D) Detroit shall file a report within 15 days after refunds have been made,

¹ Michigan Municipal Power Pool, Consumers Power Company, Village of Clinton, City of Croswell, Village of Sebawaing, Southeastern Michigan REC, and Thumb Electric Cooperative.

² Order issued April 28, 1975.

³ Order issued July 2, 1976.

⁴ Order issued October 15, 1975.

⁵ See e.g. Exhibit 38.

such report to show monthly billing determinants and revenues under prior, present and settlement rates. The report shall also show the monthly interest computation, together with a summary of such information for the total refund period.

(E) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Edison, or any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against Edison or any other person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-12746 Filed 4-30-76;8:45 am]

[Docket No. ID-1776]

W. C. GERSTNER**Application**

APRIL 26, 1976.

Take notice that on April 8, 1976, W. C. Gerstner (Applicant) filed an application with the Federal Power Commission pursuant to Section 305(b) of the Federal Power Act. Applicant seeks authority to hold the following position:

Director, Illinois Power Company, Electric & Gas Utility Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-12744 Filed 4-30-76;8:45 am]

[Docket No. ER76-622]

IOWA PUBLIC SERVICE CO.**Filing of Contract Supplement**

APRIL 26, 1976.

Take notice that on April 18, 1976, Iowa Public Service Company (IPS) tendered for filing copies of Supplement

No. 2, dated January 19, 1976, to the contract between Iowa Public Service Company and the United States Department of the Interior, Bureau of Reclamation. IPS states that the only change that this Supplement makes in the contract is that Iowa Public Service Company will continue to provide wheeling service to the Town of Paullina, Iowa, until such a time as the transmission facilities to be provided by the Town of Paullina for service from a third party system are completed and placed in service, but no later than December 31, 1976.

According to IPS, the original contract dated May 14, 1968 between Iowa Public Service Company and the United States Department of the Interior, Bureau of Reclamation has been filed with the Federal Power Commission and designated "Iowa Public Service Company Rate Schedule FPC No. 44".

Also tendered for filing are three conformed copies of Exhibit A which are also dated January 19, 1976 and are a part of the aforementioned original contract dated May 1, 1968, said Exhibit A to supersede Exhibit A dated March 1, 1972.

IPS states that inasmuch as this filing merely provides a continuation of the service provided under the aforementioned contract and rate schedule and no new services or installations are added or modified and no change in the rates have occurred, the Company requests the Commission to waive its Notice requirement under Section 35.3 of its Rules and Regulations and requests that the enclosed documents be made a part of the original filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 10, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12748 Filed 4-30-76; 8:45 am]

[Docket Nos. CP75-334, RP76-8, and RP76-90; CI76-111 (G-5319); CI76-115; CI76-24 (G-6482)]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC. ET AL.

Findings and Order After Statutory Hearing
Issuing Certificate of Public Convenience
and Necessity

APRIL 26, 1976.

On May 9, 1975, Kansas-Nebraska Natural Gas Company, Inc. (K-N) Skelly Oil Company, William F. Stevens, Estate of J. B. Stoddard, et al., filed in Docket No. CP75-334 an application pursuant to

Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition, construction and operation of certain facilities for the underground storage of natural gas, all as more fully set forth in the application in this proceeding as supplemented on July 28, 1975, November 28, 1975, and February 10, 1976.

The authorization sought by K-N for development and operation of underground storage in the now almost depleted Big Springs Gas Field in Deuel County, Nebraska, will permit reworking and recompleting existing wells, increasing the capacity of the gathering system and utilizing existing compression. The field will have a design deliverability of 100,000 Mcf per day when gas is stored at 50 percent of total capacity and a design deliverability of 140,000 Mcf per day at full storage capacity. Top gas volume at full development will be 39 million Mcf of gas.

K-N has purchased, contingent upon approval by the Commission, the leasehold and other interests of three independent producers in the Big Springs Field: Skelly Oil Company (Skelly), William F. Stevens (Stevens) and the Estate of J. B. Stoddard, Deceased, et al. (Stoddard). These three parties have filed applications pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon their respective sales to K-N. Stevens and Skelly's applications were filed on August 18, 1975, and Stoddard's application was filed on July 16, 1975.

K-N's 1974 FPC Form No. 15, "Natural Gas Companies Annual Report of Gas Supply," shows that K-N's sources of supply are capable of meeting its total requirements, including four million Mcf of gas to be injected into storage, for the next seven years. However, deliverability studies by K-N indicate that these sources of supply will be unable to meet peak requirements during the 1976-77 heating season, and consequently, Big Springs peaking capabilities will be required to meet peak requirements during this period and in subsequent years.

The original gas in place in the Big Springs "D" Sand reservoir was approximately 53.8 million Mcf at a pressure of 763 psia. The total estimated original recoverable reserve was 43.8 million Mcf. There were an estimated 2.6 million Mcf of recoverable gas in the reservoir on January 1, 1974, and cumulative production to that date was 41.2 million Mcf. Approximately 10 million Mcf of unrecoverable native gas will be left in place when the field is ultimately abandoned.

By the end of the third year of the project, development of the Big Springs Storage Field is projected to reach 28.0 million Mcf, which will be made up of 10.0 million Mcf of unrecoverable native gas, 2.8 million Mcf of additional injected cushion gas and 15.2 million Mcf of injected working gas. After the third year, gas available during periods of low demand will be injected, as system operations allow, to build the total stored working gas to 39 million Mcf at full de-

velopment. Cushion gas at full development will be 14.8 million Mcf including 10.0 million Mcf of unrecoverable native gas.

The Big Springs Storage Field will have a design deliverability of 100,000 Mcf per day when the gas in storage is 50 percent of total capacity and a design deliverability of 140,000 Mcf per day at full storage capacity. Big Springs Field's location and capability will help K-N meet peak winter demand and promote overall system flexibility and efficiency.

Conversion of the Big Springs "D" Sand reservoir to storage operations will require that a total of 23 existing wells be reworked for storage service and that 8 new wells be drilled. Two abandoned wells will be plugged. Existing compression in the Big Springs Station will be reworked to serve the dual purpose of maintaining K-N's main line capacity east of Big Springs and to inject gas into storage. There will be seven units totaling 6,650 horsepower. The existing 8.8 miles of gathering system will be retired and replaced by approximately 11.1 miles of 6 $\frac{1}{2}$ -inch, 10 $\frac{3}{4}$ -inch, and 12 $\frac{3}{4}$ -inch lines, along with dehydration units and other appurtenant facilities necessary for injection and withdrawal of storage gas. Total cost of the storage conversion is estimated to be \$5,420,000, which will be financed out of current working capital or will be obtained from interim bank loans which will be funded at a later date through securities issues.

Preparatory to converting the Big Springs Field to storage service, K-N has arranged to buy the leasehold interests in that field. Two of three of the independent producers in the field have been selling gas to K-N under certificate authorizations. These three producers as previously noted request to abandon their sales to K-N preparatory to selling their interests to K-N. K-N concurs in these requests.

Skelly, abandonment applicant, in Docket No. CI76-111, sells gas to K-N from the Big Springs Field under its FPC Rate Schedule No. 49, pursuant to certificate authorization in Docket No. G-5319. Stevens, abandonment applicant in Docket No. CI76-115, sells gas to K-N from the Big Springs Field pursuant to certificate authorization in Docket No. CS72-214. Stevens' wells in the Big Springs Field are in a state of acute depletion and no longer produce commercial quantities of gas. Stoddard, abandonment applicant in Docket No. CI76-24, sells gas to K-N pursuant to small producer authorization in Docket No. CS72-964.¹ Stoddard's wells in the Big Springs Field are in a state of acute depletion and no longer produce commercial quantities of gas.

¹ While small producer authorization was issued to Stoddard in Docket No. CS72-964, sales are still being made under FPC Rate Schedule No. 2, pursuant to certificate authorization in Docket No. G-6482. This order terminates that certificate and accepts the notice of cancellation of rate schedule for filing.

In view of the fact that K-N would be utilizing a depleted gas field which is currently subjected to operational activities similar to those of the proposed project and since the treatment facilities would be constructed at the existing compressor station and existing compressor units would be utilized, it appears that there are no economically feasible alternatives to the proposed action which would result in less impact to the human environment. The consequence of no action would be the unavailability of additional winter supplies of gas for high-priority markets. Accordingly, the Commission finds that authorization of the proposed project would not constitute a major Federal action significantly affecting the quality of the human environment. However, to further reduce the environmental impact of this project, the Commission will order that noise attenuation devices be used on drilling equipment and that fences be installed around all surface facilities to prevent possible damage from farm equipment.

After due notice by publication in the Federal Register on May 29, 1975 (40 FR 23375), in Docket No. CP75-334 petitions to intervene were filed by Central Telephone and Utilities Corporation (CTU) and Nebraska Public Power District (NPPD), the latter filing out of time. CTU, a resale customer of K-N, supports K-N's proposed project as providing the additional flexibility and reliability of gas service "badly needed to meet the requirements of CTU's primary market and small volume commercial customers for winter peak periods."

NPPD, as an interruptible industrial customer of K-N, will not be one of K-N's customers to benefit from the proposed Big Springs Storage since, pursuant to Commission Order No. 498 (50 FPC 1954), K-N does not withdraw gas from underground storage to serve interruptible industrial customers. However, NPPD requests the Commission to hold a formal hearing on the instant application claiming an adverse impact to NPPD "resulting from the proposed action herein and its relationship to the proceedings in Docket No. CP74-299."

The allegations raised by NPPD are a result of K-N's proposal in Docket No. CP74-299 to abandon service by December 31, 1978, to five of its largest direct-sale electric utility customers including NPPD. K-N responded to NPPD's allegations in an answer filed August 29, 1975, by stating that there is no relationship between the source of the gas for the Big Springs Project and the abandonments proposed in Docket No. CP74-299. K-N further stated that "the conversion of the Big Springs Field to an underground storage field is not dependent upon volumes of gas which may be released for present or future use of higher priority customers by granting of the abandonment application in Docket No. CP74-299. At no time has K-N made its proposal to develop the Big Springs Field as an underground storage reservoir contingent upon the outcome of the proceedings in Docket No. CP74-299."

In response to the Secretary's request for supplemental information in Docket No. CP75-334, K-N further stated that it has "no specific plans at this time to curtail any particular low priority customers other than those covered in Docket No. CP74-299. Any curtailment of gas to large industrial boiler fuel interruptible customers has been considered by K-N to be in the interest of firm gas customers and in compliance with Commission Order No. 498 for the conservation and husbanding of natural gas."

These curtailment issues as raised by NPPD are appropriate for consideration in Docket No. CP74-299 and in the curtailment proceeding as established herein. K-N's rate increase filing pending in Docket No. RP76-8, contains filed tariff sheets making certain provisions for curtailment of deliveries.² The curtailment issues raised in Docket No. RP76-8 shall be severed from the price issues in that docket, redocketed as Docket No. RP76-9, renoted for the purpose of receiving comments,³ and their justness and reasonableness will be determined in that proceeding.

After due notice by publication in the Federal Register on September 11, 1975 (40 FR 43275) in Docket Nos. CI76-111 and CI76-115 and on August 1, 1975 (40 FR 32379) in Docket No. CI76-24, no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on _____ the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant, Kansas-Nebraska Natural Gas Company, Inc., a Kansas corporation having its principal place of business in Phillipsburg, Kansas, is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of April 6, 1943, in Docket No. G-259 (3 FPC 966).

(2) Applicants, Skelly Oil Company, William F. Stevans and Estate of J. B. Stoddard, et al., is each a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(3) The sales to be abandoned, as hereinbefore described and as more fully described in the applications in Docket Nos. CI76-111, CI76-115, and CI76-24 are made in interstate commerce subject to the jurisdiction of the Commission, and the abandonment thereof is subject to the requirements of Subsection (b) of Section 7 of the Natural Gas Act.

² Original Sheet Nos. 22, 23 and 24 to K-N's FPC Gas Tariff, Third Revised Volume No. 1.

³ The renote procedure will not affect the effectiveness of the tariff sheets since they were effective pursuant to the requirements of Section 4 of the Natural Gas Act.

(4) The proposed abandonments of sales by Applicants in Docket Nos. CI76-111, CI76-115, and CI76-24 are permitted by the public convenience and necessity, and approval therefor should be granted as herein accepted for filing.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the notice of cancellation submitted by Skelly and Stoddard should be accepted for filing.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates issued in Docket Nos. G-5319 and G-6482 be terminated.

(7) The facilities hereinbefore described, as more fully described in the application in Docket No. CP75-334, are to be used in the sale and transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the acquisition, construction and operation thereof by K-N are subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

(8) K-N is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(9) The acquisition, construction and operation of facilities by K-N are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(10) Since NPPD is a customer of K-N and participation by NPPD will not delay the instant proceeding, sufficient cause exists for accepting its late petition to intervene.

(11) Participation by the petitioners to intervene may be in the public interest.

The Commission orders: (A) Permission for and approval of the abandonment of the sales hereinbefore described, and as more fully described in the applications in Docket Nos. CI76-24, CI76-111, and CI76-115 are granted.

(B) Applicants in Docket Nos. CI76-24, CI76-111, and CI76-115 shall notify the Commission of the date of abandonments within ten days thereof.

(C) Skelly's Notice of Cancellation of its FPC Gas Rate Schedule No. 49 is accepted for filing as Supplement No. 10 to its FPC Gas Rate Schedule No. 49, effective the date of this order.

(D) Stoddard's Notice of Cancellation of its FPC Gas Rate Schedule No. 2 is accepted for filing as Supplement No. 6 to its FPC Gas Rate Schedule No. 2, effective the date of this order.

(E) The certificates previously issued in Docket Nos. G-5319 and G-6482 are hereby terminated.

(F) A certificate of public convenience and necessity is issued authorizing K-N in Docket No. CP75-334 to acquire, construct and operate the facilities hereinbefore described, as more fully described in the application in this proceeding, upon the terms and conditions of this order.

(G) The certificate issued by paragraph (F) above and the rights granted thereunder are conditioned upon K-N's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c) (4), (d) (2), (d) (3), (e), (f) and (g) of Section 157.20 of such Regulations.

(H) Construction of facilities by K-N shall be completed, the acquisitions shall be consummated and the facilities shall be placed in actual operation, as provided by paragraph (b) of Section 157.20 of the Commission's Regulations, within one year from the date of this order.

(I) The certificate issued by paragraph (F) above is subject to the following conditions and stipulations:

(1) The maximum inventory of natural gas stored in the "D" Sand of the Muddy or Upper Dakota Sandstone formation shall not exceed 53.8 million Mcf at 14.73 psia and 60° F, and the maximum shut-in reservoir bottom-hole pressure shall not exceed 763 psia, without prior authorization of the Commission.

(2) K-N shall submit semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information on proposed operations (volumes shall be stated at 14.73 psia and 60° F, and pressures shall be stated in psia):

(a) The volumes of natural gas injected and the volumes withdrawn during each month of the cycle;

(b) The volumes of natural gas in the storage field at the end of the cycle;

(c) The maximum daily injection and withdrawal rates experienced during the cycle;

(d) The shut-in bottom-hole or well-head pressure of each well in the storage field and the average of such pressures;

(e) The average working pressure on maximum days, referred to in item (c), taken at a central measuring point where the total volume injected or withdrawn is measured;

(f) Structure and isopachous maps showing the location of the wells and the latest revised structure contours, which maps need not be filed if there is no material change from maps previously filed;

(g) A tabulation of wells drilled, cleaned, or recompleted with subsea depth of formation and casing settings and copies of any new core analysis, back-pressure tests, or electric logs; and

(h) Reports shall continue to be filed semiannually until the storage inventory volume has reached or closely approximated the maximum permitted in the Commission's order. Thereafter, the reports shall continue on a semiannual basis for a period of two years. At the end of the two year period, the filing of reports shall be discontinued unless otherwise ordered by the Commission.

(3) To further reduce the environmental impact of this project noise attenuation devices shall be used on drilling equipment and fences shall be installed around all surface facilities to

prevent possible damage from farm equipment.

(J) The curtailment issues raised by the filing in Docket No. RP76-8 are hereby severed from said docket, redocketed as Docket No. RP76-90, and shall be re-noticed for the purpose of receiving comments and made subject to such further procedures as the Commission may prescribe by further order in Docket No. RP76-90.

(K) The petitioners to intervene are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, that the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further*, that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

(L) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12757 Filed 4-30-76; 8:45 am]

[Docket No. RP76-77]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Accepting for Filing and Suspending Proposed Tariff Sheets, and Establishing Procedure

APRIL 26, 1976.

On April 1, 1976 Mississippi River Transmission Corporation (MRT) tendered for filing proposed revised tariff sheets¹ to its FPC Gas Tariff, First Revised Volume No. 1. The Commission's review of MRT's proposed tariff sheets indicates they should be accepted for filing and suspended for five months.

MRT's filing proposes to change these tariff sheets in order to increase the rates being charged under its resale rate schedules and to eliminate the demand charge adjustment. Based on the twelve months ended December 31, 1975, the proposed changes will increase MRT's revenues by approximately \$23,378,941 annually. MRT states the reasons for the proposed rate increase are increase in return, book depreciation rate, cost of purchased gas, plant and related cost of service items. The proposed change also eliminates the demand charge ad-

¹ Forty-First Revised Sheet No. 3A, Twelfth Revised Sheet No. 6, Second Revised Sheet No. 7. MRT filed Forty-First Revised Sheet No. 3A without a number designation because it anticipates several PGA filings will be made before October 1, 1976. MRT states that it will file a page designation at the time the rates are placed into effect. The Commission has designated this as Forty-First Revised Sheet No. 3A, since it replaces Fortieth Revised Sheet No. 3A. MRT may file a Substitute Revised Sheet when the rates become effective.

justment from MRT's Rate Schedule CD-1.

MRT indicates that Section X of the Stipulation and Agreement in settlement of the general rate increase filed in Docket No. RP75-20 provides for a moratorium on MRT placing into effect a general rate increase prior to October 1, 1976. This settlement agreement was approved by Commission order dated February 13, 1976. In view of the moratorium, MRT has filed in anticipation of a five month suspension which would allow the proposed rates to become effective as of October 1, 1976.

Public notice of MRT's tender of filing was issued on April, 1976 with comments, protests or petitions to intervene due on or before April 23, 1976. To date, no comments, protests or petitions to intervene have been filed with the Commission.

The Commission's review of MRT's proposed tariff sheets indicates that they have not been shown to be just and reasonable and, therefore, they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, the Commission shall suspend the operation of these tariff sheets for five months until October 1, 1976 at which time they will be permitted to become effective, subject to refund, pending the decision in this proceeding.

The Commission finds: Good cause exists to accept MRT's proposed tariff sheets for filing and to suspend the operation and use thereof for five months until October 1, 1976.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Section 4 thereof, the Commission's Rules of Practice and Procedure, and the regulations under the Natural Gas Act, a public hearing shall be held for the purpose of determining the lawfulness and reasonableness of MRT's proposed tariff.

(B) MRT's proposed tariff sheets are hereby accepted for filing and the operation and use thereof suspended for five months until October 1, 1976 at which time they are permitted to become effective, subject to refund, pending the hearing and decision thereon.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before July 30, 1976. (See Administrative Order No. 157).

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 85 North Capitol Street, N.E., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12753 Filed 4-30-76; 8:45 am]

[Docket No. ER76-539]

MISSOURI POWER & LIGHT CO.

Order Rejecting in Part and Accepting and Suspending in Part Proposed Rate Increase, Granting Intervention and Establishing Procedure

APRIL 26, 1976.

On March 2, 1976, Missouri Power & Light Company (Missouri) tendered for filing a proposed rate increase to its municipal customers.¹ Because the rate increase is contractually prohibited with respect to two customers it shall be rejected for these customers. With respect to the remaining municipal customers, the proposed rates have not been shown to be just and reasonable and accordingly, we shall suspend the effectiveness of the proposed changes for a period of one month, and establish hearing procedures to determine the justness and reasonableness of the proposed rates.

In its March 2, 1976 filing, Missouri proposed changes in its FPC Electric Tariff Rate Schedule Nos. 45, 46, 42, 44, 41 and 39,² which would increase its revenues from its wholesale municipal customers by approximately \$104,000, or 11.4% annually. The proposed tariff changes additionally reflect a revision in Missouri's fuel adjustment clause for the purpose of complying with Section 35.14 of the Commission's Regulations and an adjustment in the fuel base cost utilized in computing changes under the fuel adjustment clause. Missouri states that its filing primarily represents increases in purchased power costs it has incurred. Missouri has requested an effective date of April 27, 1976.

Public notice of Missouri's March 2, 1976 filing was issued March 11, 1976 with all protests, comments or petitions to intervene due on or before March 23, 1976. On March 25, 1976 a protest was filed by the City of Centralia and the Mayor of Linneus. A petition to intervene was filed by the City of Marcelline. The City of Perry has requested an extension of time in which to file its petition to intervene and protest.

A review of the currently effective service agreements with Missouri's customers here affected reveals that with respect

to the Cities of Owensville and Perry, Missouri, the proposed increase must be rejected. Section 10 of the April 6, 1970 contract between Missouri and Owensville provides as follows:

This contract . . . shall inure to and be binding upon the successors and assigns of the respective parties thereto. No modification thereof shall be binding unless in writing duly accepted by utility and municipality and approved by their respective officers.

This Commission has received no notification or evidence of concurrence on the part of Owensville. In the absence of a written contractual modification accepted by Owensville the Commission must reject the proposed rate increase to that customer.

With respect to the City of Perry, Missouri, Section 8 of the November 4, 1964 contract between Missouri and Perry provides as follows:

This agreement shall be binding upon both parties, their successors and assigns for a period ending the 14th day of January, 1977, and thereafter for periods of one (1) year unless terminated by the giving of ninety (90) day's notice . . . prior to the expiration of the first period or of succeeding periods above mentioned.

As this provision makes clear the presently effective agreement between Perry and Missouri will remain effective in the absence of a 90-day notice of termination by either party. The Commission has received no evidence of a notice of termination from Missouri to Perry. In the absence of such notice the existing agreement between the parties remains in effect and Missouri is contractually precluded from filing the instant rate increase for the City of Perry. In light of these contractual provisions with the Cities of Owensville and Perry the Commission shall reject the rate increase to those customers.

With respect to the remaining municipal customers proposed to be affected by this increase, the Commission's review of the filing indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, with respect to these remaining municipal customers, Missouri's proposed changes shall be suspended for a period of one month, to become effective subject to refund on May 27, 1976, and set for hearing as hereinafter ordered.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the increased rates and charges proposed in Docket No. ER 76-539 for the Cities of Centralia, Kahoka, Linneus, and Marcelline, Missouri be accepted for filing and suspended for one month, to become effective May 27, 1976, subject to refund, pending hearing and decision as to their lawfulness.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the increased rates and charges proposed in Docket No. ER76-539 for the Cities of

Owensville and Perry, Missouri be rejected.

(3) Intervention by the City of Marcelline in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), the proposed increase in rates and charges filed by Missouri in Docket No. ER76-539 is hereby rejected with respect to the Cities of Owensville and Perry, Missouri.

(B) Pursuant to the authority contained in the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of Missouri's proposed rate increase filed in Docket No. ER76-539 for the Cities of Centralia, Kahoka, Linneus and Marcelline, Missouri.

(C) Pending a hearing and decision thereon, Missouri's proposed rate increase tendered in Docket No. ER76-539 for the Cities of Centralia, Kahoka, Linneus, and Marcelline, Missouri is hereby accepted for filing and suspended for one month, to become effective May 27, 1976, subject to refund.

(D) The City of Marcelline is hereby permitted to intervene in Docket No. ER 76-539, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of this intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) Missouri shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed in Docket No. ER76-539, as required by Section 35.19a of the Commission's Regulations, 18 CFR 35.19a.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 13 CFR 3.5 (d)), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(G) The Presiding Administrative Law Judge shall preside at the initial conference in this proceeding to be held on May 20, 1976, at 9:30 A.M., at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

¹ Cities of Centralia, Kahoka, Linneus, Marcelline, Owensville, and Perry, Missouri.

² 1st Revised Sheet No. 1, 1st Revised Sheet No. 2, 1st Revised Sheet No. 3.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12751 Filed 4-30-76; 8:45 am]

[Docket No. OP76-320]

NATURAL GAS PIPELINE CO. OF AMERICA
Application

APRIL 26, 1976.

Take notice that on April 1, 1976, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-320 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 3.3 miles of 24-inch pipeline, and other miscellaneous appurtenant facilities, to interconnect the proposed facilities of U-T Offshore System (UTOS) and Applicant in Cameron Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has the right to purchase various portions of gas reserves that may be developed in 32 blocks which are predominately located in the High Island Area, offshore Texas, and in the West Cameron Area, offshore Louisiana. Further, Applicant states that it would utilize the proposed facilities to receive deliveries of up to a maximum volume of 196,640 Mcf of natural gas per day to be transported for Applicant by High Island Offshore System (HIOS) and UTOS.¹ Applicant asserts that HIOS would transport the gas reserves of Applicant in the High Island Area, offshore Texas, to the facilities of UTOS in Block 167, West Cameron Area, offshore Louisiana and that UTOS would then transport said gas from Block 167 to the facilities of Applicant proposed herein.

The application shows the estimated cost of the proposed facilities to be \$1,581,000, which cost would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 17, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make

¹ The application shows that HIOS and UTOS have filed in Docket Nos. CP75-16, CP75-81, CP75-104, and CP76-118 applications for authorization to transport gas for Applicant and to construct pipeline facilities necessary therefor.

the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12758 Filed 4-30-76; 8:45 am]

[Docket No. E-9418]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Order Granting Motion To Withdraw Application for Rate Increase and Requiring Refunds

APRIL 26, 1976.

On March 16, 1976, South Carolina Electric and Gas Company (SCE&G) filed a motion to withdraw its application for a wholesale rate increase¹ in the captioned docket. The rate increase filing was tendered by SCE&G on May 1, 1975. By order issued May 30, 1975, the Commission accepted for filing and suspended the proposed increase until November 1, 1975, and established hearing procedures to determine its justness and reasonableness. Hearing was held on October 29, 1975. Thereafter on February 2, 1976, Presiding Administrative Law Judge Stephen L. Grossman issued an Initial Decision rejecting in toto the proposed increase. By the instant order, the Commission shall grant SCE&G's motion.

In support of the instant motion, SCE&G states that while it believes the proposed rate increase to be just and reasonable, it appears to SCE&G that Commission acceptance of such increase could not be obtained without further protracted litigation. Such litigation, SCE&G avers, would divert Company personnel from other responsibilities, a situation which SCE&G believes to be inappropriate at this time. Finally,

¹ The proposed rate increase was applicable to three municipalities, five rural electric cooperatives, and one public power body.

SCE&G states that the intervenors in the proceeding do not oppose its motion to withdraw.

On March 23, 1976, the Commission's Staff filed an answer to SCE&G's motion. Staff states that it does not oppose withdrawal of the rate increase application. Staff further asserts that in the event withdrawal is permitted, SCE&G should be ordered to make refunds, with interest, of all increased revenues collected since November 1, 1975.

The Commission's review of SCE&G's motion indicates that withdrawal of the subject rate increase application will not prejudice any parties to the proceeding, and will be in the public interest. Accordingly, said motion shall be granted, as hereinafter ordered. We shall further order that, within 30 days of issuance of this order, SCE&G refund with interest at nine percent per annum the difference between revenues collected pursuant to the proposed increased rates which became effective November 1, 1975, and revenues collected pursuant to rates in effect immediately prior to that date. Concurrently with the disbursement of such refunds, SCE&G shall file a report of same with the Commission, and shall also file to place into effect the revised tariff sheets which were in effect prior to November 1, 1975.²

The Commission finds: (1) Withdrawal by SCE&G of its rate increase application in the instant docket is in the public interest.

(2) Good cause exists to require that, within 30 days of issuance of this order, SCE&G refund with interest at nine percent per annum the difference between revenues collected pursuant to the proposed increased rates which became effective November 1, 1975, and revenues collected pursuant to rates in effect immediately prior to that date. Concurrently with the disbursement of such refunds, SCE&G should file a report of such refunds with the Commission.

(3) Good cause exists to require that, concurrently with disbursement of refunds and the filing of a report of same, SCE&G file to place into effect the revised tariff sheets which were in effect prior to November 1, 1975.

The Commission orders: (A) SCE&G's March 16, 1976 motion to withdraw its rate increase application in the instant docket is hereby granted.

(B) Within 30 days of issuance of this order, SCE&G shall refund with interest at nine percent per annum, to the appropriate wholesale customers, the difference between revenues collected pursuant to the proposed increased rates which became effective November 1, 1975, and revenues collected pursuant to rates in effect immediately prior to that date. Concurrently with the disbursement of said refunds, SCE&G shall file a report of same with this Commission.

(C) Concurrently with disbursement of refunds and the filing of a report of

² The referenced tariff sheets are designated Third Revised Sheet Nos. 5 and 8 to SCE&G's FPC Electric Tariff, Original Volume No. 1.

same with the Commission, SCE&G shall file to place into effect those revised tariff sheets which were in effect prior to November 1, 1975.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-12749 Filed 4-30-76; 8:45 am]

[Docket No. CP76-322]

**TENNESSEE GAS PIPELINE CO. A DIVISION
OF TENNECO INC. AND EAST TENNESSEE
NATURAL GAS CO.**

Application

APRIL 26, 1976.

On April 2, 1976, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP76-322 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's Statement of General Policy and Interpretations (18 CFR 2.79) for certificates of public convenience and necessity authorizing certain transportation services for a two-year term, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application shows that two of East Tennessee's direct sale purchasers, Hooker Chemicals and Plastics Corp. (Hooker) and Stauffer Chemical Company (Stauffer), and one indirect customer, Conalco Inc. (Conalco), service by East Tennessee's resale customer, United Cities Gas Company (United Cities), (hereinafter collectively referred to as Consumers) have requested Tennessee and East Tennessee to provide the proposed transportation services to enable said Consumers to receive natural gas volumes Consumers propose to purchase from Texas Pacific Oil Company, Inc. (Texas Pacific), from the Beckwith Creek Field, Calcasieu Parish, Louisiana. Tennessee and East Tennessee each request authorization to render transportation services for two years to the extent their respective operating conditions permit through the utilization of their respective existing facilities.

Tennessee proposes to receive for the account of the Consumers daily volumes of natural gas of up to 2,300 Mcf, 1,700 Mcf, and 1,000 Mcf for Hooker, Stauffer, and Conalco, respectively, together with volumes for Tennessee's fuel and use requirements associated with these transportation services, and to transport and deliver to East Tennessee equivalent daily volumes of natural gas to the extent Tennessee's operating conditions permit through the utilization of existing facilities and on the terms and conditions and at the rates stated in the transportation contracts with Consumers, dated March 29, 1976. It is said that Consumers

will arrange to have such volumes plus the fuel and use volumes delivered to Tennessee's existing pipeline in Calcasieu Parish and that from such point Tennessee proposes to transport and deliver such volumes exclusive of the fuel and use volumes to East Tennessee for the account of Consumers at Tennessee's existing Lobelville sales meter station delivery point to East Tennessee in Perry County, Tennessee.

East Tennessee proposes to receive from Tennessee at Lobelville the above stated daily volumes for the account of the Consumers and to transport and deliver to Hooker and Stauffer, and to United Cities for the account of Conalco, daily volumes of up to 2,283 Mcf, 1,688 Mcf, and 993 Mcf, respectively, which quantities reflect reductions for volumes to be used for East Tennessee's fuel and use requirements associated with these transportation services, to the extent operating conditions permit through the utilization of East Tennessee's existing facilities and on the terms and conditions and at the rates stated in the transportation contracts with Consumers, dated February 12, 1976.

Applicants assert that the proposed transportation services are within the purview of Section 2.79 of the Commission's General Policy and Interpretations and with respect to such transportation services Applicants state the following:

(1) The gas transported and delivered by Applicants will be used by each Consumer for its high priority industrial purposes¹ to replace volumes actually being curtailed by the Consumer's respective supplier. Each Consumer has provided a detailed description of the nature of the emergency necessitating authorization of the proposed transportation services and such descriptions are submitted as an attachment to Exhibit Z-2 of the instant application.

(2) Each Applicant will transport gas only to the extent its respective operating conditions permit. Each applicant anticipates having capacity available to perform its respective transportation services due to curtailments resulting from a supply deficiency on their respective systems. Thus, transportation of such gas will not preempt the pipeline capacity needed for Applicants' firm services.

(3) The gas involved is produced from onshore areas. It is not available to Applicants or to any other pipeline for resale in interstate commerce, and thus, approval of the transportation arrangements proposed will make additional gas available to the interstate market which would not otherwise be sold in the interstate market.

(4) The price which each of the Consumers has contracted to pay is well within the range of intrastate prices in

¹ The term high priority industry purposes refers to Priority 2 uses under Section 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78) or Priority 3 uses thereunder which would have been Priority 2 uses had such gas been purchased on a firm basis.

the area from which the sale will be made. Each Consumer will pay \$1.40 per Mcf from May 1, 1976, to January 1, 1977; \$1.50 per Mcf from January 1, 1977, to January 1, 1978; and \$1.60 per Mcf from January 1, 1978 to termination which is two years from the first day of the month following initial deliveries.

(5) Only one Consumer, Conalco, is served through a distributor, United Cities, and the latter has agreed to transport and deliver to Conalco at Conalco's plant site the volumes purchased from Texas Pacific and delivered by East Tennessee to United Cities for the account of Conalco. United Cities states that it has available capacity to perform such transportation service.

It is stated that each Consumer will pay Tennessee each month for transportation service a charge to be determined by multiplying the rate of 16.08 per Mcf by the volume of natural gas actually transported and delivered by Tennessee to East Tennessee for the account of such Consumer in such month. Further, it is stated that Tennessee will retain each day a daily volume of natural gas determined by multiplying 3.2 percent times the volume delivered by Tennessee to East Tennessee for the account of each Consumer for such day. It is said that each Consumer will pay East Tennessee each month for transportation service a charge to be determined by multiplying the rate of 26.69 cents per Mcf by the volume of natural gas actually transported and delivered by East Tennessee to, or for the account of, each such Consumer, and East Tennessee will retain each day a daily volume determined by multiplying 0.72 percent times the volume delivered by Tennessee to East Tennessee for the account of each Consumer for such day.

Applicants assert that the proposed transportation services are in the public interest because the service will enable Consumers to purchase additional natural gas to offset current and future curtailment. Further, Applicants state that each anticipates that it will have capacity available to provide the transportation services proposed and that rendering such services will not, therefore, have any impact on any existing firm service being rendered by either Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 24, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.76-12743 Filed 4-30-76;8:45 am]

[Docket No. CP76-267]

TEXAS GAS TRANSMISSION CORP.

Application for Certificate of Public Convenience and Necessity

APRIL 26, 1976.

Take notice that on February 17, 1976, Texas Gas Transmission Corporation (Applicant), Post Office Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP76-267, an application pursuant to Section 7 of the Natural Gas Act, as amended, the Rules and Regulations of the Federal Power Commission issued thereunder, and Section 2.79 of the Commission's General Policy and Interpretations, for a certificate of public convenience and necessity authorizing Applicant to transport a quantity of natural gas up to 1,729 Mcf per day on an interruptible basis for the Aluminum Company of America (Alcoa), an existing industrial customer of Southern Indiana Gas and Electric Company (SIGECO), one of Applicant's resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the gas will be purchased by Alcoa from production in Claiborne Parish, Louisiana, and delivered to Texas Gas at a meter station to be constructed and installed near the site of Block Valve No. 1 on Applicant's Sharon-Carthage 20-inch pipeline in Section 35, Township 20 North, Range 6 West, in Claiborne Parish, Louisiana. Applicant will redeliver the transportation volumes to SIGECO at an existing point or points of delivery for the account of Alcoa. Alcoa will pay Applicant an initial charge of 16.51 cents per Mcf for volumes delivered to SIGECO for Alcoa's account, and Applicant will retain 9.0 percent of the transportation volumes

for compressor fuel and line loss makeup.

The application states that the gas is intended for high-priority process use in Alcoa's Warrick operations located near Newburgh, Indiana.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 17, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-12747 Filed 4-30-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given on a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region Three, on May 17, 1976, from 9:30 a.m. to 3:00 p.m., in Room 202 of the General Services Administration Winder Building, 604 17th Street, NW., Washington, DC. The meeting will be devoted to the final review by the Panel of design concepts for the Federal Office Building and Parking Facility, Norfolk, Virginia. Frank and open discussion of the design presented by the Architect-Engineer is essential to the performance of a comprehensive evaluation and critique. Accordingly, pursuant to a determination that it will be concerned with a matter

listed in 5 U.S.C. 552(b)(5), the meeting will not be open to the public.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc.76-12739 Filed 4-30-76;8:45 am]

INTERNATIONAL TRADE COMMISSION

RECLOSABLE PLASTIC BAGS

[Investigation No. 337-TA-22]

Change of the Commission Investigative Attorney

The United States International Trade Commission hereby gives notice that Robert Bannerman has replaced Wilhelm Zeitler as the Commission investigative attorney in this case. All submissions to be served upon the Commission investigative attorney should henceforth be sent to Robert Bannerman, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

Notice of Investigation was published on January 15, 1976, in the FEDERAL REGISTER (41 F.R. 2280).

By order of the Commission.

Issued: April 28, 1976.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.76-12741 Filed 4-30-76;8:45 am]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE RESEARCH GRANTS PANEL

Meeting

MARCH 11, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C., from 9:00 A.M. to 5:00 P.M. on May 24 and 25, 1976.

The purpose of the meeting is to review Centers of Research Programs applications submitted to the National Endowment for the Humanities for projects beginning after December 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosures of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW.,

Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-12808 Filed 4-30-76;8:45 am]

ADVISORY COMMITTEE RESEARCH GRANTS PANEL

Meeting

MARCH 26, 1976.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Research Grants Panel will be held at Washington, D.C. from 9:00 A.M. to 5:00 P.M. on May 20 and 21, 1976.

The purpose of the meeting is to review Centers of Research Programs applications submitted to the National Endowment for the Humanities for projects beginning after December 1, 1976.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee
Management Officer.

[FR Doc.76-12808 Filed 4-30-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

Correction

In FR Doc. 76-11900 appearing on page 17432 in the issue of Monday, April 26, 1976, on page 17432 in the second column, the second full paragraph, the 10th line should have read "Safety Guide are requested by June 1, 1976. Single copies of this draft may be obtained by a written".

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON NAVAL REACTORS/NAVAL OPERATIONS

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Naval Reactors/

Naval Operations will meet on May 20, 1976 in West Milton, N.Y. This meeting will be closed to the public.

The Subcommittee will meet in closed session with its consultants, members of the NRC Staff, representatives of the Division of Naval Reactors of the Energy Research and Development Administration (ERDA), and their consultants, to exchange opinions and discuss preliminary views and recommendations related to proposed operation of the MARF (Modifications and Addition to Reactor Facility). The discussion of the MARF will be based on documents classified as Confidential Restricted Data as defined by the Atomic Energy Act of 1954.

In connection with this matter, the Subcommittee may hold executive sessions not open to the public, the NRC Staff, or representatives of ERDA prior to and at the conclusion of the meeting with the NRC Staff and representatives of ERDA to exchange opinions and formulate recommendations to the full Committee.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close this meeting which will consist of an exchange of opinions and preliminary positions, the discussion of which, if written, would fall within exemption 5 of 5 U.S.C. 552(b) (5), and matters specifically exempted from disclosure by statute (5 U.S.C. 552(b) (3)). Separation of factual material from individuals' advice, opinions, and recommendations while this meeting is in progress is considered impractical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and Agency operation.

Dated: April 27, 1976.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.76-12849 Filed 4-30-76;8:45 am]

[Docket No. 50-485A]

ROCHESTER GAS AND ELECTRIC CORP. ET AL.

Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended, an additional letter of advice from the Attorney General of the United States, dated April 22, 1976, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by June 2, 1976 either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street, N.W., Washington, D.C., or (2) by mail or tele-

gram addressed to the Secretary, Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity
Group, Nuclear Reactor Reg-
ulation.

APRIL 22, 1976.

APPENDIX A

STERLING POWER PROJECT, NUCLEAR UNIT NO. 1.—DOCKET NO. 50-485A

You have requested our advice pursuant to Section 105 of the Atomic Energy Commission Act of 1954, as amended, in regard to the revised application by Rochester Gas and Electric Corporation, Orange and Rockland Utilities, Inc., Central Hudson Gas and Electric Corporation, and Niagara Mohawk Power Corporation to construct the Sterling Power Project Nuclear Unit No. 1.

In 1974, the Department of Justice reviewed the original application for the Sterling Power Project submitted by Rochester Gas and Electric Corporation. On December 27, 1974, we informed your predecessor Commission that the activities proposed under that application would not create or maintain a situation inconsistent with the antitrust laws. On May 16, 1975, RG&E entered into a Memorandum of Understanding with Central Hudson Gas & Electric Corporation and Orange and Rockland Utilities, Inc. to build, own, and operate the Sterling Power Project on an equal basis. This latter agreement was amended on May 30, 1975 to include Niagara Mohawk Power Corporation as a participant in the project. The amended agreement specified each participant's share of the expenses and energy output as follows:

	Percent
Central Hudson	17
Orange & Rockland	33
Rochester	28
Niagara Mohawk	22

The Sterling Power Project is proposed to be built in the town of Sterling, Cayuga County, New York. It will be capable of producing 7750 mw of thermal power and is scheduled to be in service in April 1984. The most recent estimate of cost is \$1,212,000,000 which includes a cost of \$82,000,000 for the first nuclear core.

Of the four applicants, Niagara Mohawk, a privately-owned utility, is the largest by any unit of measure. Niagara Mohawk serves nearly 1,300,000 customers in a 37 county area of upstate and western New York, including over 650 separate cities, towns, and villages. Natural gas is also marketed to 419,000 customers by the company. In 1974, total revenues were approximately \$831,000,000 of which \$671,000,000 was derived from sales of electricity.

Niagara Mohawk's peak load in January, 1975, was 4,870 MW. Its own dependable capacity at that time was 4,314 MW. In addition, Niagara Mohawk purchased 1,887 MW of hydro capacity from the Power Authority of the State of New York. By the end of 1975, the company had an installed capability of 4,979 MW, consisting of 639 MW hydro capacity and 4,340 MW of thermal capacity. The internally generated capacity is produced at five fossil-fuel steam stations, one nuclear station, twenty combustion turbine and diesel units and 76 hydro-electric stations. In addition, Niagara Mohawk owns and operates an extensive transmission and distribution system and interconnects with the high-voltage transmission systems of neighboring elec-

tricity systems. Overhead transmission lines consist of 9,100 circuit miles operating at voltages up to 345 KV. There are also 900 cable miles of underground transmission lines. The company estimates its electric load will increase a total of 4,577,000 KW from 1975 to 1994.

Rochester Gas is a privately-owned utility which supplies electric power to over 271,000 electrical customers in northwestern New York State. Rochester Gas also markets natural gas to over 207,000 customers and steam for heating and industrial purposes to 404 customers in Rochester. In 1974, total revenues amounted to slightly over \$234,000,000, of which over \$142,000,000 was derived from electric sales.

Rochester Gas' most recent peak load was 925 MW in August 1975. Its total dependable capacity at that time was 998 MW. Its generation consists of 47 MW of hydro capacity and 951 MW of thermal capacity. Its system includes six hydro stations, four steam stations, one nuclear station, and two gas turbine stations. For the period from 1975 to 1994, Rochester Gas estimates that its load will increase in the range of 52,000 KW to 133,000 KW.

Orange and Rockland, also a privately-owned utility, serves over 138,000 electrical customers in southern New York State, west of the Hudson River, and parts of New Jersey and Pennsylvania. Natural gas is sold to slightly over 81,000 customers. In 1974, total revenues were over \$131,000,000 of which over \$114,000,000 was derived from electric sales.

Orange and Rockland's most recent peak load was 646 MW, in August 1975. Total dependable capacity was 1,022 MW, consisting of 978 MW of thermal capacity and 44 MW of hydro capacity. The company operates nine generating plants, of which two are steam, five are hydro and two are gas turbines. For the period from 1975 to 1994, the company estimates its load growth to be 25,000 KW to 93,000 KW.

Central Hudson is a privately-owned utility which supplies electric power to nearly 193,000 customers in southeastern New York State. The utility also markets natural gas to more than 42,000 customers. Central Hudson serves a 26,000 square mile area on both sides of the Hudson River, including 58 cities, towns and villages. In 1974, total system revenues were over \$131,000,000 of which over \$114,000,000 was derived from electric sales.

Central Hudson's most recent peak load was 597 MW in August 1975. Total dependable capacity at this time was 793 MW. The company generates at two steam stations, two gas turbines, and three hydro-electric plants. For the period 1975 to 1994, Central Hudson estimates that its load will increase in the range of 65,000 KW to 140,000 KW.

Our review of the information submitted by these applicants in connection with the revised application, as well as other pertinent information about their competitive relationships, does not indicate any interest in or requests for participation in the Sterling Unit by electric utilities other than the four applicants. Further, with one exception, we are aware of no present complaints regarding coordination and power supply arrangements between any of the applicants and other, smaller electric systems who might be affected by the construction and operation of this facility.

The Department has become apprised of efforts of the Town of Massena, New York, whose residents presently obtain electric power at retail from applicant Niagara Mohawk, to establish a municipal electric system and to condemn certain Niagara Mohawk facilities within its corporate limits. Niagara Mohawk opposes such condemnation; the case is proceeding before a New York court. Meanwhile, Massena has sought a power

supply for its proposed system and has obtained assurance of an allocation of power from the Power Authority of the State of New York (PASNY). Massena would desire to have Niagara Mohawk, which operates the high-voltage transmission network in the area, transmit this power from PASNY's facilities to its proposed distribution system. Niagara Mohawk has so far declined to commit itself to such action. Massena has also applied to the Federal Power Commission for a compulsory interconnection with Niagara Mohawk and for other relief.

A dominant system's refusal to transmit power over its facilities to an independent distribution system can raise serious antitrust questions. *Other Tail Power Co. v. United States*, 410 U.S. 365 (1973). While we would not necessarily expect Niagara Mohawk to have consummated a final, specific transmission agreement with Massena at this early stage of Massena's attempt to acquire its facilities and enter the electric distribution business, there may come a time, if Massena persists in its efforts, when Niagara Mohawk's commitment or agreement in principle to transmit PASNY power to Massena would become appropriate from an antitrust standpoint. Accordingly, we suggest that during the pendency of the instant application the Commission keep abreast of the developments relating to Massena's proposed entry so that it can determine whether Niagara Mohawk's subsequent actions may raise issues warranting an antitrust hearing. We would be pleased to consult further with the Commission if developments warrant.

Given, however, the preliminary status of Massena's proposed formation of an electric system (and of Niagara Mohawk's dealings with that system should it come into being), and the apparent absence of other actual or prospective antitrust problems involving Niagara Mohawk or any of the other three applicants, Central Hudson, Orange and Rockland and Rochester Gas and Electric, we do not now recommend that your Commission conduct an antitrust hearing with respect to this application.

[FR Doc.76-12850 Filed 4-30-76;8:45 am]

PANAMA CANAL COMPANY

CANAL ZONE GOVERNMENT

Establishment of Procedures To Comply With the National Environmental Policy Act

On March 3, 1976 the Panama Canal Company and the Canal Zone Government published in the *FEDERAL REGISTER* (43 FR 9203) a notice of the proposed adoption of revised procedures for consideration of environmental impact statements pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332 (2)(C)), Executive Order 11514 of March 15, 1970 (35 FR 4247) and the guidelines issued by the Council on Environmental Quality (CEQ) on August 1, 1973 (38 FR 20549). In the notice of March 3, 1976, interested parties were invited to submit written comments not later than April 19, 1976. Written comments were received from two parties, one a management consulting firm that made no suggestions for change in the procedures and the other a law firm representing clients who are users of the canal, referring to the decision of the Supreme Court in *Aberdeen & Rockfish Railroad Company v. Students Challeng-*

ing Regulatory Procedures, 422 U.S. 289, and making several recommendations of changes.

Comments received on the proposed procedures as published in the *FEDERAL REGISTER* notice of March 3, 1976 were given full consideration in developing the final procedures. The Panama Canal Company and Canal Zone Government also consulted with the Council on Environmental Quality in the course of development of the text of the procedures in the light of the comments received. The full text of the comments received are on file and available for inspection in the Office of the Secretary, Panama Canal Company, 425 13th Street, N.W., Suite 312, Washington, D.C. 20004.

A summary of the comments received and the views of the issuing agencies on each follows:

Comment. "Because these comments are addressed primarily to the legal sufficiency of the proposed regulations, we direct the Canal Company's attention to the decision of the Supreme Court in *Aberdeen & Rockfish Railroad Company v. Students Challenging Regulatory Agency Procedures*, 45 L. Ed 2 191 (1975) popularly known as *SCRAP II*. In this case, the Court held that 'NEPA does create a discrete procedural obligation on government agencies to require written consideration of environmental issues in connection with certain major federal actions and a right of action in adversely affected parties to enforce that obligation.'"

"Further, the Court noted that under NEPA 'The time at which the agency must prepare the final 'statement' [the final environmental impact statement] is the time at which it makes a recommendation or report on a proposal for federal action by proposing a proposal and then holding hearings on the proposal, the statute would appear to require an environmental impact statement to be included in the proposal and to be considered at the hearing.'"

"Thus, when the Canal Company submits proposals for toll increases, proposed changes in measurement rules, and like proposals, NEPA requires that those proposals be accompanied by an environmental impact statement and that such statement be considered at any hearings on the proposal."

Response. The "certain major Federal actions" in which written consideration of environmental issues is required are those which significantly affect the environment. The language of the Court quoted in the comment refers to the time when a statement must be prepared and not whether it is required.

Comment. "The Canal Company's proposed regulations do not address the role and importance of the Panama Canal to international and domestic commerce, and the impact of actions by the Canal Company on that commerce. The Supreme Court recognized in the *SCRAP* cases that some actions of the Interstate Commerce Commission affecting transportation could also affect the environment."

Response. There is no requirement in NEPA that the regulations address the role and importance of the Panama Canal to international and domestic commerce or actions by the Panama Canal on that commerce. When actions by the Panama Canal Company affect the environment, evaluation of that impact is, of course, required by NEPA.

Comment. "With these considerations, we turn to specific proposed regulations. Hearings and numbers are those of the March 3 notice."

"Proposed Procedure for Considering Environmental Impact"

"5. Applicability. a. Actions listed should include proposals for increases in the rates of tolls and proposals for amendment of measurement rules. Because increases in costs may have environmental impact, exception (3) should be eliminated."

Response. Proposals for increases in tolls and for amendment of the measurement rules are regarded as "rulemaking." Express provision to that effect has been added to the paragraph.

The exception (3) as written refers only to "project amendments (e.g., increases in costs) which do not alter the environmental impact of the action." (emphasis supplied) Increases in costs that have an environmental impact are not now covered by the exception.

Comment. "Definitions and Guidelines"

"4. "Federal Actions" should include
 "(6) Proposals to increase the rates of tolls."

"(7) Proposals to amend measurement rules."

Response. Language expressly recognizing that proposals to increase tolls and to amend measurement rules are included in "rulemaking" has been added.

Comment. "Form and Content of Section 102(2)(C) Statements"

"(i) In view of the decision in *SCRAP II*, the sentence in parentheses permitting discussion of objections by agencies and others to be added at the end of the review process in a final statement, should be eliminated. Any final impact statement, if available, should accompany the proposal through the review process, and not be prepared after the review process is completed so as to preclude any comment on the final statement."

Response. This suggested change would preclude the use of draft statements during consideration of a proposal. Consideration of a draft statement along with other issues involved in the review of a proposal before final action on the proposal is considered to be in full compliance with the requirements of NEPA.

Comment. "(j) The categories cited for consideration in a statement should include a new sub-item 3 'Impact on Commodities and Cargo Transiting the Canal'."

Response. Although nothing in NEPA requires consideration of the impact of a proposal on transportation or the movement of commodities and cargo in

a transportation facility, it is recognized that the effect of a proposal on Panama Canal traffic may have environmental effect. A new paragraph expressly providing for consideration of such effects has been added.

Comment. "Preparation and Processing of Section 102(2)(C) Statements"

"1. c (1) Hearings. This section only refers to making available draft statements before public hearings. Where those hearings relate to a proposal for federal action and are the only opportunity for hearing on the proposal, a final statement, if available, should be circulated in advance of hearing."

Response. As indicated in the response to the comment on paragraph (i) of the section of the procedures on Form and Content of Section 102(2)(C) Statements, use of a draft statement as part of the review process before agency decision on a proposal is regarded as in full compliance with NEPA.

Comment. "12. Consideration of Comments. This paragraph could be interpreted as requiring comments from agencies and others to accompany a draft statement through internal review processes only. Where review involves public hearings, or other public notice, the comments should accompany the statement through those procedures also."

Response. This paragraph as written referred to internal as distinguished from public processes and was not intended to limit or qualify the requirement of NEPA that the statement be considered at every stage of the agency review processes. However, to eliminate any question in that regard, the word "internal" has been deleted.

In addition to the changes suggested in the comments, two editorial changes have been made in the procedures. In paragraph 5, in the third column on page 9203 of the March 3 notice, the word "and" has been deleted at the beginning of the ninth line to make it clear that the phrase beginning in the following line "where the Canal agencies have primary responsibility for the subject matter involved" modifies only the phrase "legislative proposals." A second editorial change corrects the citation to NEPA on the first line of the second column on page 9205 of the notice.

With the changes and additions outlined above, the proposed procedures have been adopted by the Panama Canal Company and the Canal Zone Government as set forth below. The procedures become effective upon May 3, 1976.

THOMAS M. CONSTANT,
 Secretary.

ESTABLISHMENT OF PROCEDURES TO COMPLY WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

1. **Purpose.** This document provides guidelines for the preparation and handling of detailed environmental impact statements on proposals for legislation and other actions significantly affecting

the quality of the human environment, as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) (Public Law 91-190).

2. **Cancellation.** The Control Policy for the Canal Agencies which was published at 37 FR 22669 on October 20, 1972, is cancelled.

3. **Background and authority.** a. The National Environmental Policy Act (NEPA) establishes a broad national policy to promote efforts to improve the relationship between man and his environment, and provides for the creation of the Council on Environmental Quality (CEQ). NEPA sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws of the U.S. shall be interpreted and administered in accordance with those policies and goals. Additionally, NEPA provides that environmental consideration shall be given appropriate weight in the decision making process, along with economic and technical considerations.

b. Section 102(2)(c) of NEPA is designed to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. This section requires that all agencies of the Federal Government shall:

"include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action.

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented.

(iii) alternatives to the proposed action.

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes."

c. Section 102(2)(c) of NEPA provides that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the

integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment."

d. Executive Order 11514, dated March 5, 1970, orders all Federal agencies to initiate procedures needed to direct their policies, plans, and programs so as to meet national environmental goals.

e. Guidelines from the President's Council on Environmental Quality, published in 38 FR 20549, 40 CFR 1500 et seq., 1 August 1973, provide guidance to agencies for preparation of environmental impact statements.

4. *Point of contact.* The point of contact for coordination of Canal agencies environmental matters is the Environmental Quality Committee.

5. *Applicability.* a. The requirements in this document calling for either a determination that a statement is not needed, or for statement preparation pursuant to section 102(2)(C) of NEPA apply to, but are not limited to, the following, except as noted below: all contracts, purchases, leases, construction, rulemaking, including actions to change rates of tolls and rules for measurement of vessels for the Panama Canal, regulatory actions, permits, plans, legislative proposals where the Canal agencies have primary responsibility for the subject matter involved, directives, program proposals, and any renewals or reapprovals of the foregoing. Exceptions to the foregoing are:

(1) Administrative procurements (e.g., general supplies) and contracts for personnel services;

(2) Normal personnel actions (e.g., promotions, hirings);

(3) Project amendments (e.g., increases in costs) which do not alter the environmental impact of the action;

(4) Legislative proposals relating to matters not the primary responsibility of the Canal agencies;

(5) Reports to Congress setting forth policy recommendations to be followed by legislation proposals.

b. A general class of actions may be covered by a single statement when the environmental impacts (and alternatives thereto) of all such actions are substantially similar.

6. *Definitions and guidelines.* Enclosure (1) sets forth more specific definitions of terms used in these guidelines.

7. *Preparation and processing of environmental impact statements.* The initial review of possible environmental impacts of proposed activities should be undertaken concurrently with initial technical and economic studies. If this review indicates that an activity may have some environmental impact, then an environmental assessment should be prepared. An environmental assessment is a preliminary environmental study which should be used to determine if the proposed action will significantly affect the environment. If the assessment indicates a likelihood that the environment may be significantly affected, an environmental impact statement in accordance with NEPA should be prepared. Enclosure (5) contains instructions for pre-

paring an environmental assessment and enclosure (3) sets forth instructions for preparation and processing of the environmental impact statement.

8. *Action.* Although specific action assignments are listed in this paragraph, the entire expertise and experience of all Canal agencies facilities should be utilized to assure a systematic and interdisciplinary approach in implementing NEPA.

a. General internal controls shall be established by all bureau and independent unit heads to assure that all proposals originating in their areas of responsibility which have the likelihood that the environment may be affected are:

(1) Identified by an initial review process at the earliest stage in the planning process.

(2) Analyzed in an environmental assessment in accordance with enclosure (5), which is to be submitted to the Environmental Quality Committee for determination of need for environmental impact statement preparation.

b. The Chairman, Environmental Quality Committee, shall:

(1) Coordinate with other divisions and offices within the Canal agencies all significant environmental related matters in order that an effective point of contact and sources of information will exist to respond to environmental matters either internally or externally.

(2) Receive and review environmental assessments prepared by bureaus and independent units, and determine from them if environmental statements are required.

(3) Assign to appropriate bureaus or independent units the task of preparing draft and final environmental statements in accordance with enclosure (3); and receive these draft and final statements for appropriate processing.

(4) Coordinate and establish liaison with Federal and local agencies and with the public for the purpose of receiving comments on Canal agencies draft environmental impact statements.

(5) Transmit draft environmental impact statements and copies of all comments made thereon to CEQ and to all other parties which furnished comments or requested copies.

(6) Coordinate the review of Canal agencies draft environmental impact statements with all Federal and local agencies concerned and with the public, including public hearings.

(7) Maintain and transmit to CEQ quarterly a current list of all administrative actions for which environmental statements are being prepared. This list shall be made available for public inspection on request.

(8) Transmit final environmental statements to CEQ and to other parties which furnish comments on, or requested copies, of the draft statements.

(9) Provide procedural support in the preparation and review of environmental impact statements.

(10) Maintain file copies of all environmental impact statements prepared by the Canal agencies.

(11) Maintain mailing lists of parties interested in Canal agencies environmental impact statements in accordance with enclosure (3).

c. Heads of bureaus and independent units shall:

(1) Prepare, according to enclosure (3) those draft and final environmental impact statements assigned to them by the Environmental Quality Committee, and transmit them to the Environmental Quality Committee for further processing.

(2) Assist the EQC with technical advice and information and other aid as required in the processing of environmental statements prepared by them.

(3) Furnish consultation and information to other bureaus and units as requested to assist in the preparation of their respective environmental reviews, assessments, and draft and final environmental impact statements.

d. *Citizen involvement:* Citizen involvement in environmental matters at each pertinent stage of the development of the proposed action is encouraged. Formal and informal citizen input should be sought as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, maintaining mailing lists of interested parties, and other methods should be utilized. See enclosure (3).

ENCLOSURE (1)

DEFINITIONS AND GUIDELINES

1. *General.* When there is doubt whether or not to prepare a statement, it should be prepared. Where the environmental consequences of a proposed action are unclear but potentially significant, a statement should be prepared. It should be noted that the effects of many Federal decisions, including related Federal actions and projects in the area, can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action. The Council on Environmental Quality, on the basis of a written assessment of the impacts involved, is available to assist agencies in determining whether specific actions require impact statements.

2. *Actions affected.* a. The environmental impact of any action must be considered.

b. All legislative proposals require either environmental statements or negative determinations.

c. Any other major action which "significantly affects" the environment requires an environmental statement.

d. Any other action which does not affect the environment requires neither an environmental statement nor a negative determination.

3. *"Major."* Any Federal action significantly affecting the environment is deemed to be "major" and a statement shall be prepared.

4. *"Federal actions."* This term includes the entire range of activity undertaken by

the Canal agencies. Actions include but are not limited to:

a. Programs, projects and administrative activities, such as:

(1) Rulemaking, including actions to change rates of tolls and rules for measurement of vessels for the Panama Canal, and regulations.

(2) Construction of and operation of facilities.

(3) Waste disposal.

(4) Transportation of dangerous or contaminated commodities.

(5) Development of plans.

b. Permits, licenses, certifications, approvals, leases, or any entitlements for use.

5. "Significantly affecting" environment. Any of the following actions should ordinarily be considered as significantly affecting the quality of the human environment:

(1) Any action that is likely to be highly controversial on environmental grounds.

(2) Any action that is likely to have a significantly adverse impact on natural, ecological, cultural or scenic resources of national or local significance.

(3) Any action that (a) divides or disrupts an established community or disrupts orderly, planned development or is inconsistent with plans or goals that have been adopted by the community in which the project is located; or (b) causes increased congestion; or

(4) Any action which (a) involves inconsistency with any national, or local standard relating to the environment; (b) has a significantly detrimental impact on air or water quality or on ambient noise levels for adjoining areas; (c) involves a possibility of contamination of a public water supply system; or (d) affects ground water, flooding, erosion or sedimentation.

ENCLOSURE (2)

FORM AND CONTENT OF SECTION 102(2) (C) STATEMENT

A. Form. 1. Each statement will be headed as follows:

Panama Canal Company and Canal Zone Government Environmental Impact statement; (followed by a descriptive name or title of the proposed action).

2. Each statement shall be labeled draft or final as appropriate.

3. The cover sheet of each statement shall be followed by a Summary Sheet in the form or and containing sections corresponding to the following pattern:

SUMMARY SHEET

TITLE OF PROPOSED ACTION

Check one: () Draft, () Final Environmental Statement.

Responsible Office: Environmental Quality Committee, Panama Canal Company, Balboa Heights, Canal Zone.

(1) Name of action (check one) () Administrative Act, () Legislative Action.

(2) Description of action.

(3) Summary of environmental impacts and adverse environmental effects.

(4) Alternatives considered.

(5) a. (For draft Statements.) List all Federal and local agencies and other parties from which comments have been requested.

b. (For final statements.) List all Federal and local agencies and other parties from which written comments have been received.

(6) Date draft statement (and final environmental statement, if one has been issued) made available to the Council on Environmental Quality and the public.

4. Each statement will, as a minimum, contain sections corresponding to paragraphs B.1 below, appropriately headed, supplemented as necessary to cover other matters provided in this enclosure.

B. Content. The following provisions are intended to provide guidance on the content of environmental statements. This guidance is expected to be supplemented by research reports, guidance on methodology, and other material from the literature as may be pertinent to evaluation of relevant environmental factors:

1. General. The following points are to be covered:

a. A description of the proposed action and of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be attached as appendices or footnoted with adequate bibliographic references. The statements should also succinctly describe the environment of the area affected as it exists prior to a proposed action. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision making (planning, feasibility, design, etc.). In order to insure accurate descriptions and environmental assessments, site visits should be made where feasible. The statement should identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph B.1.c.(2)). In discussing these population aspects, it is essential that the sources of data used be identified.

b. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives of affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.

c. The probable impact of the proposed action on the environment.

(1) This requires assessment of the positive and negative effects of the proposed action as it affects both the national and international environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to consider should be the potential effect of the action on such aspects of the environment as those listed in enclosure 6. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary, as well as primary consequences for the environment should be included in the analysis. Secondary effects, through, for example, their impacts on existing community facilities and activities and through inducing new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated and an assessment made of their effects on changes in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question.

d. Alternatives to the proposed action, including where relevant, those not within the

existing authority of the responsible agency. Section 102(2) (D) of the Act requires the responsible agency to study, develop, and describe appropriate alternatives to recommended sources of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, are essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might have less detrimental effects. Examples of such alternatives includes the alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts, low capital intensive improvements, alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis should be sufficiently detailed to permit comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative, provided, however, that where an existing impact statement already contains such an analysis, its treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

e. Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, traffic congestion, threats to health, or other consequences, adverse to the environmental goals set out in section 101(b) of the Act). This should be a brief section summarizing in one place those effects discussed in paragraph c(1) that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other adverse effects discussed in paragraph c(1) will be mitigated.

f. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa. In this context short term and long term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

g. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts in paragraph 1(e) and the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

h. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs (c) and (e) of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed actions (as identified in subparagraph (d) of this paragraph) that would avoid some

or all of the adverse environmental effects. In this connection, agencies that prepare cost-benefit analyses of proposed actions should attach such analyses, or summaries thereof, to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.

1. A discussion of problems and objections raised by other Federal agencies and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section may be added at the end of the review process in the final text of the environmental statement.)

(1) The draft and final statements should document issues raised through consultations with Federal and local agencies with jurisdiction of special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizen involvement proceedings.

(2) Any unresolved environmental issues and efforts to resolve them through further consultations should be identified in the final statement. Where major unresolved conflicts are involved, the final statement should reflect that the commenter was consulted again and agreement sought. Where the Environmental Protection Agency (EPA) rates an action or statement "3", "ER", or "EU", the final statement should reflect that EPA was consulted in an effort to resolve the basis for the rating and the action taken.

(3) The statement should reflect that every effort was made to discover and discuss all major points of view on the environmental effects of the proposed action and its alternatives in the draft statement itself. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views and a meaningful reference made in the final statement to the existence of responsible opposing view not adequately discussed in the draft statement indicating responses to the issues raised.

(4) All substantive comments received on the draft (or summaries thereof where response has been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.

j. Draft statements should indicate at appropriate points in the text, underlying studies, reports, and other information obtained and considered in preparing the statement including any cost-benefit analyses prepared by the agency. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference. Every effort should be made to convey the required information succinctly in a form easily understood, giving attention to the substance of the information conveyed rather than to the particular form, or length, or detail of the statement.

2. *Properties and sites of historic archeological or cultural significance.* Because of its geographical location, the "cultural resources" of the Canal Zone are not within the normal legal, inventory and review channels of Federal agencies within the United States. However, environmental effects of a proposed action on properties and sites of

historic, archeological or cultural significance will be considered in the environmental impact statement, and the services of experts will be obtained in all appropriate cases in assessing impact and considering alternatives relating to cultural resources affected.

3. *Impacts of the proposed action on the human environment involving community disruption and relocation.* In the event that the project, proposal or action involves community disruption and relocation, the following additional information must be included in the environmental statement.

The statement should include a description of probable impact sufficient to enable an understanding of the extent of the environmental and social impact of the project alternatives and to consider whether relocation problems can be properly handled. This would include the following information obtainable by visual inspection of the proposed affected area and from secondary sources and community sources when available:

a. An estimate of the households to be displaced.

b. Impact on the human environment of an action which divides or designates an established community, including, where pertinent, the effect of displacement on types of families and individuals affected, effect of streets cut off, separation of residences from community facilities, separation of residential areas.

c. Impact on the neighborhood and housing to which relocation is likely to take place (e.g., lack of sufficient housing for large families, doublings up).

d. A definition of relocation housing in the area and the ability to provide adequate relocation housing for the types of families to be displaced. If the resources are insufficient to meet the estimated displacement needs, a description of the actions proposed to remedy this situation including, if necessary, use of housing of last resort.

4. *Considerations relating to pedestrians and bicyclists.* Where appropriate, the statement should discuss impact on pedestrian access and movement to, across, along, and between transportation facilities, including sidewalks, overpasses, pedestrian activated signals, and other factors. Impacts on use of areas by pedestrians and bicycles should be discussed, particularly in medium and high density commercial and residential areas.

5. *Other social impacts.* The general social groups specially harmed by the proposed action should be identified in the statement, including the following:

a. How the proposal will facilitate or inhibit their access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian movement, facilities, and public transit services.

b. Measures for enhancing access to these facilities as well as reducing inhibitions.

c. Transportation services available through or precluded by the proposal.

6. *Considerations relating to wetlands or coastal zones.* Where wetlands or coastal zones are involved, the statement should include:

a. Information on location, types, and extent of wetlands areas which might be affected by the proposed action.

b. Information on the present and future uses of such wetlands areas both by people and by the wildlife inhabiting these areas.

c. An assessment of the impact resulting from both construction and from operation of the project on the wetlands and associated wildlife.

d. Consideration of the potential of the project to enhance or restore the wetlands in the area of the project.

e. A statement by responsible officials with special expertise, setting forth their views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the area, and recommendations as to whether the proposed action should proceed, and if applicable, along what alternative route.

7. *Construction impacts.* In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, statements should appropriately address such matters as the following identifying any special problem areas:

a. Noise impacts from construction and any specifications providing maximum noise levels.

b. Disposal of spoil (includes any specifications).

c. Measures to minimize effects on traffic and pedestrians.

8. *Land use.* The statement should include, to the extent relevant and predictable:

a. The effect of the project on land use, and development patterns.

b. Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new development and any problems or issues which would arise in connection with these facilities.

c. The comments of agencies that would provide these facilities.

9. *Panama Canal traffic.* The statement should include, to the extent relevant and identifiable, the environmental effect of the proposal on Panama Canal traffic.

ENCLOSURE (3)

PREPARATION AND PROCESSING OF SECTION 102(2) (C) STATEMENTS

1. *Citizen involvement procedures.* Citizen involvement in environmental aspects of Canal agencies actions is encouraged at each pertinent stage of the development of the proposed action. Formal and informal citizen input should be encouraged as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, maintaining mailing lists of interested parties, and other methods should be utilized. Interested parties include community, environmental or conservation organizations or individuals affected by or known to have an interest in, or who can speak knowingly of the environmental impact of the proposed action. Lists of interested parties should be developed. Interested parties should have adequate opportunities to express their views early enough in the study process to influence the course of studies, as well as action taken. A summary of the process and any environmental issues raised should be documented in the environmental statement.

a. Early notification of preparation of environmental impact statements should be sent to interested parties and may be sent to Federal, or local agencies to solicit comments that may be helpful in preparing the draft statement.

b. Copies of the draft environmental impact statement should be sent to interested parties. The availability of the statement should be made known to appropriate interested parties, advertised in local papers, etc.

c. *Hearings.*

(1) For any action involving a public hearing, the draft statement or environmental analysis should be made available to the public at least 30 days prior to the hearing. The notice of the hearing should indicate availability of the statement for analysis. Where feasible, comments of public agencies should be made available to the public prior to the public hearing.

(2) Even where not required, a hearing may help resolve environmental conflicts. In deciding whether a public hearing is appropriate, an agency should consider:

(a) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved.

(b) The degrees of interest in the proposal, as evidenced by requests from the public and from Federal, and local authorities that a hearing be held.

(c) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under NEPA; and

(d) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

(3) Notification of the hearing should announce availability of detailed information on environmental impacts through newspaper articles, direct notification to interested parties and clearinghouses, etc.

d. Informal meetings and direct contacts with interested parties should be held early in the development process to provide the opportunity for mutual exchange of information. The objective of these actions should be to include as many of the residents and others as possible in discussion to identify community leaders and to seek their recommendations.

2. *Planning stage.* Initial assessment of environmental impacts of proposed activities should be undertaken concurrently with initial technical and economic studies.

3. *Scope of statements.* The scope of the action covered by the statement should avoid "piecemealing" and be sufficiently broad so that alternatives to the proposed action can be meaningfully evaluated. Actions covered should have independent significance, and stand on their own. In certain circumstances, broad program statements will be required in order to assess the environmental effects of a number of actions in a geographical area, or environmental impacts that are generic or common to a series of actions, or the overall impact of a chain of contemplated projects.

4. *Applications.* Each applicant for a license, permit, or other Canal agencies approval, if appropriate, will be requested to submit together with the original application, an environmental analysis of the proposed project which would be utilized in the preparation of an environmental assessment or draft statement by the Canal agencies.

(a) In such event, the Canal agencies should assist the applicant by outlining the types of information required.

(b) In all cases, the Canal agencies should make its own evaluation of the environmental issues and take responsibility for the scope and content of draft and final environmental statements.

(c) The applicant should be notified by the responsible officer that further actions prior to the approval of the applications must not adversely affect the environment.

5. *Actions originating within the Canal agencies.* In the case of proposals originating within the Canal agencies for an action to which this document is applicable, the originator of the proposal will state in the proposal whether, in his judgment, the action will or will not require a 102(2)(C) statement.

6. *Use of consultants.* Consultants may be utilized to prepare background or preliminary material for use in a draft or final environmental statement for which the Canal agencies take responsibility. Selection of con-

sultants and work by consultants who may expect further contracts based on the outcome of the environmental decision should be carefully reviewed to insure complete and objective consideration of all relevant project impacts and alternatives.

7. *Lead agency.* Where more than one agency directly sponsors an action, or is directly involved through funding, licenses, or permits, or is involved in a group of actions directly related to, each other because of functional interdependence and geographic proximity, to the maximum extent possible one statements should serve as the means of compliance with section 102(2)(C) for all Federal actions involved. The Canal agencies, in such cases, should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single "lead agency" to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the projects environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multiagency actions. For projects primarily involving land owned by or under the jurisdiction of another Federal agency, the owner agency may be appropriate to be the designated lead agency. Joint preparation of environmental statements is encouraged, when appropriate.

8. *Interdisciplinary approach.* The 102(2)(C) statement should reflect the utilization of a "systematic, interdisciplinary approach" as required by section 102(2)(A) of NEPA. The interdisciplinary approach should include appropriate disciplines to assure that environmental impacts are described in detail in the statement. This is to be carried out by relevant disciplines represented on staff, or when this is not feasible, by appropriate use of relevant Federal, and local agencies or the professional services of universities and outside consultants. The interdisciplinary approach should not be limited to the preparation of the environmental impact statement, but should also be used in the early planning stages of the proposed action. Early application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

9. *Legislative proposals.* Before the Canal agencies make a favorable report on proposed legislation involving matters for which they are primarily responsible or propose draft legislation to the Congress, the office which develops the Canal agencies position on the report or originates legislation (hereinafter the "action office") shall prepare an environmental statement or negative determination. The final text of the environmental statement and comments thereon should be available to the Congress and to the public for consideration in connection with the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text

of an environmental statement (together with comments), a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text. Negative determination may be forwarded to Congress if requested.

10. *Draft of statement.* Draft statements shall be prepared at the earliest practical point in time, prior to the first significant point of decision in the review process. They should be prepared early enough in the process so that the analysis of the environmental effects and the exploration of alternatives with respect thereto are significant inputs to the decisionmaking process.

11. *Processing of environmental statements.* On actions requiring a 102(2)(C) statement, except for those relating to legislative proposals, the Canal agencies shall circulate for comment the draft environmental statement to all Federal agencies which have jurisdiction by law or special expertise with respect to the environmental impact involved, and to the CEQ (ten copies). For action within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the proposals shall be referred to EPA for review and comment. A time period for comment may be specified, but not less than 45 days from the date of publication in the Federal Register of the CEQ listing notifying the public of issuance of the impact statement. An extension of time, if possible, when requested, shall be allowed. Where comments of agencies have been obtained, comments need not be solicited again from the same agencies, unless there are pertinent changes in the project proposal.

a. *Federal review.* Enclosure (6) is a list of Federal agencies with special expertise or jurisdiction by law with respect to environmental impacts, to whom the draft statement should be referred, as appropriate, for comment.

b. *Local review.* (1) Where review of the proposed action by local agencies is relevant, such local review shall be provided for as follows:

Where review of direct Federal development projects takes place prior to preparation of an environment statement, comment on the environmental effects of the proposed project are inputs to the environment statement. These comments should be attached to the draft statement when it is circulated for review and copies of the draft sent to those who commented.

(2) Environmental statements on legislative proposals are not subject to local review. Similarly, budget proposals or other internal agency proposals may be excluded from such review.

12. *Utilization of comments.* Comments received under Federal, and local review and inputs from the process of citizen participation shall accompany the draft environmental statement through the normal internal project or program review process.

13. *Final statements.* Draft statements shall be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations, before being put into final form for approval of the responsible official. All final environmental impact statements will be reviewed for legal sufficiency by the General Counsel.

14. *Public Review.* These procedures are designed to encourage public participation in the impact statement process at the earliest possible time.

15. *Availability of statements to the President, the CEQ, and the public.* After approval, the Environmental Quality Committee is responsible for transmitting 10 copies of each final statement to the CEQ which trans-

mittal shall be deemed transmittal to the President. Draft and final statement should be made available in offices of preparing agencies. Copies of final statements, with comments attached, should be sent to all Federal, and local agencies and private organizations who commented on the draft statement or requested copies of the final statement and to individuals who commented on the draft statement and to individuals who requested copies of the final statement. If the number of statements requested makes distribution inappropriate, CEQ shall consider an alternative arrangement. Materials to be made available to the public shall be provided without charge to the extent practical, or at a fee which is not more than actual cost of reproducing copies to be sent to other Federal agencies.

16. *Timing of agency decision.* To the maximum extent practicable, no administrative action (i.e., any proposed action to be taken by the agency other than agency proposals for legislation to Congress, budget proposals, or agency reports on legislation) subject to section 102(2)(C) is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines. Neither should such administrative action be taken sooner than 30 days after the final approved text of an environmental statement (together with comments) has been made available to the CEQ and the public. If the final text of an environmental statement is filed within 90 days after a draft statement has been circulated for comment, furnished to the CEQ and made public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently to the extent that they overlap. The time periods are measured from the date of publication in the Federal Register of the weekly filing with the Council on Environmental Quality.

17. Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provision of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, should consult with the Environmental Quality Committee CEQ about alternative arrangements.

ENCLOSURE (4)

NEGATIVE DETERMINATION

1. *General.* Any proposal for an action to which this document is applicable will include either a statement as required by section 102(2)(c) of the NEPA or a determination that the proposed action will not have a significant impact on the environment. Negative determinations are made by the Environmental Quality Committee on the basis of information provided through the environmental review process, including the initial review and the environmental assessment (see Enclosure 5). Negative determination need not be considered outside the originating agency, but should be made available to the public upon request. Negative determination should be supported by sufficient documentation so that the basis for the determination that the proposed action does not have a significant impact on the environment is clear. However, if the Canal agencies decide that an environmental statement is not necessary for a proposed action.

(a) which has been identified as normally requiring preparation of a statement,

(b) which is similar to actions for which a statement has been prepared,

(c) which has been previously announced to be the subject of a statement, or

(d) for which a negative determination has been made in response to a request from CEQ, the Canal agencies shall prepare a publicly available record briefly setting forth the agency's decision and the reasons for that determination. Lists of such negative determinations, and any determinations made that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided for lists of statements under preparation.

ENCLOSURE (5)

ENVIRONMENTAL ASSESSMENT

1. *General.* An environmental assessment should be used to determine if the proposed action will significantly affect the environment. All of the areas in paragraph 2 must be covered; however, the depth of coverage should be consistent with the magnitude of the project.

2. *Content of the environmental assessment.* The following points shall be included in the environmental assessment:

(1) A description of the proposed action, a statement of its purposes, and a description of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact.

(2) The relationship of the proposed action to land use, plans, policies, and controls for the affected area.

(3) The probable impact of the proposed action on the environment.

(4) Alternatives to the proposed action, including, where relevant, those not within the existing authority of the Canal agencies.

(5) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution).

(6) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.

ENCLOSURE (6)

AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON¹

AIR

Air Quality.

Department of Agriculture-Forest Service (effects on vegetation).

Atomic Energy Commission (radioactive substances).

Department of Health, Education, and Welfare.

Environmental Protection Agency.

Department of the Interior:

Bureau of Mines (fossil and gaseous fuel combustion).

Bureau of Sport Fisheries and Wildlife (effect on wildlife).

Bureau of Outdoor Recreation (effect on recreation).

Bureau of Land Management (public lands).

Bureau of Indian Affairs (Indian lands).

¹ In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted, and should be sent a copy of any draft and final impact statement which covers such action.

National Aeronautics and Space Administration (remote sensing aircraft emissions).

Department of Transportation:

Assistant Secretary for Systems Development and Technology (auto emissions).

Coast Guard (vessel emissions).

Federal Aviation Administration (aircraft emissions).

WEATHER MODIFICATIONS

Department of Agriculture-Forest Service.

Department of Commerce-National Oceanic and Atmospheric Administration.

Department of Defense—Department of the Air Force.

Department of the Interior—Bureau of Reclamation.

Water Resources Council.

WATER

Water Quality.

Department of Agriculture:

Soil Conservation Service.

Forest Service.

Atomic Energy Commission (radioactive substances).

Department of the Interior:

Bureau of Reclamation.

Bureau of Land Management (public lands).

Bureau of Indian Affairs (Indian lands).

Bureau of Sport Fisheries and Wildlife.

Bureau of Outdoor Recreation.

Geological Survey.

Office of Saline Water.

Environmental Protection Agency.

Department of Health, Education, and Welfare.

Department of Defense:

Army Corps of Engineers.

Department of the Navy (ship pollution control).

National Aeronautics and Space Administration (remote sensing).

Department of Transportation—Coast Guard (oil spills, ship sanitation).

Water Resources Council.

River Basin Commissions (as geographically appropriate).

Marine Pollution, Commercial Fishery Conservation, and Shellfish Sanitation.

Department of Commerce—National Oceanic and Atmospheric Administration.

Department of Defense:

Army Corps of Engineers.

Office of the Oceanographer of the Navy.

Department of Health, Education, and Welfare.

Department of the Interior:

Bureau of Sport Fisheries and Wildlife.

Bureau of Outdoor Recreation.

Bureau of Land Management (outer continental shelf).

Geological Survey (outer continental shelf).

Department of Transportation—Coast Guard.

Environmental Protection Agency.

National Aeronautics and Space Administration (remote sensing).

Water Resources Council.

River Basin Commissions (as geographically appropriate).

Water Regulation and Stream Modification.

Department of Agriculture—Soil Conservation Service.

Department of Defense—Army Corps of Engineers.

Department of the Interior:

Bureau of Reclamation.

Bureau of Sport Fisheries and Wildlife.

Bureau of Outdoor Recreation.

Geological Survey.

Department of Transportation—Coast Guard.

Environmental Protection Agency.

National Aeronautics and Space Administration (remote sensing).

Water Resources Council.
River Basin Commissions (as geographically appropriate).

FISH AND WILDLIFE

Department of Agriculture:
Forest Service.
Soil Conservation Service.
Department of Commerce—National Oceanic and Atmospheric Administration (marine species).
Department of the Interior:
Bureau of Sport Fisheries and Wildlife.
Bureau of Outdoor Recreation.
Environmental Protection Agency.
Atomic Energy Commission (radioactive waste).
Department of Defense—Army Corps of Engineers.
Department of Health, Education, and Welfare.
Department of the Interior:
Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling).
Bureau of Land Management (public lands).
Bureau of Indian Affairs (Indian lands).
Geological Survey (geologic and hydrologic effects).
Office of Saline Water (demineralization).
Department of Transportation—Coast Guard (ship sanitation).
Environmental Protection Agency.
River Basin Commissions (as geographically appropriate).
Water Resources Council.

NOISE

Department of Commerce—National Bureau of Standards.
Department of Health, Education, and Welfare.
Department of Housing and Urban Development (land use and building materials aspects).
Department of Labor—Occupational Safety and Health Administration.
Department of Transportation:
Assistant Secretary for Systems Development and Technology.
Federal Aviation Administration, Office of Noise Abatement.
Environmental Protection Agency.
National Aeronautics and Space Administration.

RADIATION

Atomic Energy Commission.
Department of Commerce—National Bureau of Standards.
Department of Health, Education, and Welfare.
Department of the Interior:
Bureau of Mines (uranium mines).
Mining Enforcement and Safety Administration (uranium mines).
Environmental Protection Agency.

HAZARDOUS SUBSTANCES

Toxic Materials.
Atomic Energy Commission (radioactive substances).
Department of Agriculture:
Agricultural Research Service.
Consumer and Marketing Service.
Department of Commerce—National Oceanic and Atmospheric Administration.
Department of Defense.
Department of Health, Education, and Welfare.
Environmental Protection Agency.
Department of Commerce—National Oceanic and Atmospheric Administration (coastal areas).
Department of Defense—Army Corps of Engineers.

Department of Housing and Urban Development (urban and floodplain areas).
Department of the Interior:
Office of Land Use and Water Planning.
Bureau of Outdoor Recreation.
Bureau of Reclamation.
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Management.
Geological Survey.
Environmental Protection Agency (pollution effects).
National Aeronautics and Space Administration (remote sensing).
River Basin Commissions (as geographically appropriate).
Water Resources Council.
Land Use in Coastal Areas.
Department of Agriculture:
Forest Service.
Soil Conservation Service (soil stability, hydrology).
Department of Commerce—National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management).
Department of Defense—Army Corps of Engineers (beaches, dredge and fill permit, Refuge Act permits).
Department of Housing and Urban Development (urban areas).
Department of the Interior:
Office of Land Use and Water Planning.
Bureau of Sport Fisheries and Wildlife.
National Park Service.
Geological Survey.
Bureau of Outdoor Recreation.
Bureau of Land Management (public lands).
Department of Transportation—Coast Guard (bridges, navigation).
Environmental Protection Agency (pollution effects).
National Aeronautics and Space Administration (remote sensing).
Redevelopment and Construction in Built-Up Areas.
Department of Commerce—Economic Development Administration (designated areas).
Department of Housing and Urban Development.
Department of the Interior—Office of Land Use and Water Planning.
Department of Transportation.
Environmental Protection Agency.
General Services Administration.
Office of Economic Opportunity.
Density and Congestion Mitigation.
Department of Health, Education, and Welfare.
Department of Housing and Urban Development.
Department of the Interior:
Office of Land Use and Water Planning.
Bureau of Outdoor Recreation.
Department of Transportation.
Environmental Protection Agency.
Food Additives and Contamination of Foodstuffs.
Department of Agriculture—Consumer and Marketing Service (meat and poultry products).
Department of Health, Education, and Welfare.
Environmental Protection Agency.
Pesticides.
Department of Agriculture:
Agricultural Research Service (biological controls, food and fiber production).
Consumer and Marketing Service.
Forest Service.
Department of Commerce—National Oceanic and Atmospheric Administration.
Department of Health, Education, and Welfare.

Department of the Interior:
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects).
Bureau of Land Management (public lands).
Bureau of Indian Affairs (Indian lands).
Bureau of Reclamation (irrigated lands).
Environmental Protection Agency.
Transportation and Handling of Hazardous Materials.
Atomic Energy Commission (radioactive substances).
Department of Commerce:
Maritime Administration.
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone).
Department of Defense:
Armed Services Explosive Safety Board.
Army Corps of Engineers (navigable waterways).
Department of Transportation:
Federal Highway Administration, Bureau of Motor Carrier Safety.
Coast Guard.
Federal Railroad Administration.
Federal Aviation Administration.
Assistant Secretary for Systems Development and Technology.
Office of Hazardous Materials.
Office of Pipeline Safety.
Environmental Protection Agency.

ENERGY SUPPLY AND NATURAL RESOURCES DEVELOPMENT

Electric Energy Development, Generation and Transmission, and Use.
Atomic Energy Commission (nuclear).
Department of Agriculture—Rural Electrification Administration (rural areas).
Department of Defense—Army Corps of Engineers (hydro).
Department of Health, Education, and Welfare (radiation effects).
Department of Housing and Urban Development (urban areas).
Department of the Interior:
Bureau of Indian Affairs (Indian lands).
Bureau of Land Management (public lands).
Bureau of Reclamation.
Power Marketing Administrations.
Geological Survey.
Bureau of Sport Fisheries and Wildlife.
Bureau of Outdoor Recreation.
National Park Service.
Environmental Protection Agency.
Federal Power Commission (hydro, transmission, and supply).
River Basin Commissions (as geographically appropriate).
Tennessee Valley Authority.
Water Resources Council.
Petroleum Development, Extraction, Refining, Transport, and Use.
Department of the Interior:
Office of Oil and Gas.
Bureau of Mines.
Geological Survey.
Bureau of Land Management (public lands and outer continental shelf).
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife).
Bureau of Outdoor Recreation.
National Park Service.
Department of Transportation (Transport and Pipeline Safety).
Environmental Protection Agency.
Interstate Commerce Commission.
Natural Gas Development, Production, Transmission, and Use.
Department of Housing and Urban Development (urban areas).

Department of the Interior:
 Office of Oil and Gas.
 Geological Survey.
 Bureau of Mines.
 Bureau of Land Management (public lands).
 Bureau of Indian Affairs (Indian lands).
 Bureau of Sport Fisheries and Wildlife.
 Bureau of Outdoor Recreation.
 National Park Service.
 Department of Transportation (transport and safety).
 Environmental Protection Agency.
 Federal Power Commission (production, transmission, and supply).
 Interstate Commerce Commission.
 Coal and Minerals Development, Mining, Conversion, Processing, Transport, and Use.
 Appalachian Regional Commission.
 Department of Agriculture—Forest Service.
 Department of Commerce.
 Department of the Interior:
 Office of Coal Research.
 Mining Enforcement and Safety Administration.
 Bureau of Mines.
 Geological Survey.
 Bureau of Indian Affairs (Indian lands).
 Bureau of Land Management (public lands).
 Bureau of Sport Fisheries and Wildlife.
 Bureau of Outdoor Recreation.
 National Park Service.
 Department of Labor—Occupational Safety and Health Administration.
 Department of Transportation.
 Environmental Protection Agency.
 Interstate Commerce Commission.
 Tennessee Valley Authority.
 Renewable Resource Development, Production, Management, Harvest, Transport, and Use.
 Department of Agriculture:
 Forest Service.
 Soil Conservation Service.
 Department of Housing and Urban Development (building materials).
 Department of the Interior:
 Geological Survey.
 Bureau of Land Management (public lands).
 Bureau of Indian Affairs (Indian lands).
 Bureau of Sport Fisheries and Wildlife.
 Bureau of Outdoor Recreation.
 Neighborhood Character and Continuity.
 Department of Health, Education, and Welfare.
 Department of Housing and Urban Development.
 National Endowment for the Arts.
 Office of Economic Opportunity.
 Impacts on Low-Income Populations.
 Department of Commerce—Economic Development Administration (designated areas).
 Department of Health, Education, and Welfare.
 Department of Housing and Urban Development.
 Office of Economic Opportunity.
 Historic, Architectural, and Archeological Preservation.
 Advisory Council on Historic Preservation.
 Department of Housing and Urban Development.
 Department of the Interior:
 National Park Service.
 Bureau of Land Management (public lands).
 Bureau of Indian Affairs (Indian lands).
 General Services Administration.
 National Endowment for the Arts.
 SOIL AND PLANT CONSERVATION AND HYDROLOGY
 Department of Agriculture.
 Soil Conservation Service.
 Agricultural Service.

Forest Service.
 Department of Commerce—National Oceanic and Atmospheric Administration.
 Department of Defense—Army Corps of Engineers (dredging, aquatic plants).
 Department of Health, Education, and Welfare.
 Department of the Interior:
 Bureau of Land Management.
 Bureau of Sport Fisheries and Wildlife.
 Geological Survey.
 Bureau of Reclamation.
 Environmental Protection Agency.
 National Aeronautics and Space Administration (remote sensing).
 River Basin Commissions (as geographically appropriate).
 Water Resources Council.
 Outdoor Recreation.
 Department of Agriculture—Forest Service
 Soil Conservation Service.
 Department of Defense—Army Corps of Engineers.
 Department of Housing and Urban Development (urban areas).
 Department of the Interior:
 Bureau of Land Management.
 National Park Service.
 Bureau of Outdoor Recreation.
 Bureau of Sport Fisheries and Wildlife.
 Bureau of Indian Affairs.
 Environmental Protection Agency.
 National Aeronautics and Space Administration (remote sensing).
 River Basin Commissions (as geographically appropriate).
 Water Resources Council.
 [FR Doc.76-12795 Filed 4-30-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9259, 812-3926]

LINCOLN NATIONAL DIRECT PLACEMENT FUND, INC. AND THE LINCOLN NATIONAL LIFE INSURANCE CO.

Investment Company Act of 1940

APRIL 23, 1976.

In the Matter of Lincoln National Direct Placement Fund, Inc., 111 West Washington Street, Chicago, Illinois 60602 and The Lincoln National Life Insurance Company, 1301 South Harrison Street, Fort Wayne, Indiana 46801.

Notice of application for order pursuant to section 17(d) of the act and rule 17d-1 thereunder and pursuant to section 17(b) of the act.

Notice is hereby given that Lincoln National Life Insurance Company ("Lincoln Life"), an Indiana stock life insurance company, and Lincoln National Direct Placement Fund, Inc. ("Fund"), a non-diversified, closed-end management investment company registered under the Investment Company Act of 1940 ("Act"), (hereinafter collectively referred to as "Applicants"), filed an application on March 12, 1976 and an amendment thereto on April 12, 1976 pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission permitting the Fund to participate jointly with certain affiliates, where such affiliates may be or may be deemed to be joint participants, in a direct placement purchase of a new issue of 11½% 6-year Notes ("Notes") of the Southern Company ("Southern"), and pursuant to Section 17(b) of the Act for an order of the

Commission exempting from the provisions of Section 17(a) of the Act the proposed transfer from Lincoln Life to the Fund of \$2,000,000 principal amount of the Notes. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Lincoln Life and the Fund's investment adviser, Lincoln National Investment Management Company ("Adviser"), are wholly-owned subsidiaries of Lincoln National Corporation ("Lincoln National"). American States Life Insurance Company ("States"), a life insurance company and American Economy Insurance Company ("Economy"), a property and casualty insurance company are subsidiaries of a subsidiary of Lincoln National. Section 2(a)(3)(C) defines an "affiliated person" of another person to include any person directly or indirectly controlled by or under common control with such other person and an investment adviser if such other person is an investment company.

The Notes were offered at private placement, through a securities dealer as intermediary, to Lincoln Life and other investors. The Adviser determined that the Notes would be an attractive investment for the Fund in furtherance of its objectives and policies. Lincoln National, certain affiliates thereof including Lincoln Life, and investment companies managed by the Adviser currently own securities issued by Southern. As stated in the Fund's prospectus, the Fund may purchase the securities of an issuer whose securities have previously been acquired and are held by Lincoln National or its subsidiaries, only with the approval of a majority of the directors who are not "interested persons" of the Fund. The Fund's board of directors and specifically those directors who are not "interested persons" of the Fund approved the Fund's purchase of \$2,000,000 of the Notes. Lincoln Life took \$1,500,000 of the proposed offering for its Separate Investment Fund No. 5, a separate account maintained by Lincoln Life representing assets of its employees' pension fund. States and Economy took \$500,000 and \$1,000,000 respectively of the offering for their general accounts. The Fund's participation in the transaction involves a joint transaction with affiliated persons of the Fund's Adviser which is prohibited under Section 17(d) of the Act and Rule 17d-1 thereunder unless an exemptive order is issued by the Commission pursuant to Rule 17d-1.

Due to the fact that the closing date for the purchase and sale of the Notes and the issuance date thereof would occur before the granting of the order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, the Fund entered into an agreement whereby Lincoln Life acquired, in addition to the \$1,500,000 acquired for its Separate Account No. 5, \$2,000,000 principal amount of the Notes subject to an obligation to transfer such principal amount to the Fund at cost plus accrued interest if, within 90 days

after the acquisition by Lincoln Life of the Notes, an order of the Commission permitting such transaction was granted. If such an order is not received, the additional \$2,000,000 principal amount of the Notes will be retained for investment by Lincoln Life.

Rule 17d-1 provides that "no affiliated person of * * * any registered investment company and no affiliated person of such a person * * * acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which any registered company * * * is a participant * * * unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order * * *". It is also provided that in passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits Lincoln Life as an affiliated person of the Adviser from selling to the Fund any securities unless the Commission, upon application pursuant to Section 17(b), grants an exemption from the provisions of Section 17(a) upon finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the Fund and with the general purposes of the Act.

The Fund represents that except for the amount acquired, it will be participating in the proposed joint enterprise on a basis no different from that of the other participants. The Notes will be acquired by all participants at the same price. The Fund represents that the proposed transaction is consistent with the policy of the Fund as recited in its registration statement. Applicants also represent that the terms of the transfer of \$2,000,000 principal amount of the Notes from Lincoln Life to the Fund will be reasonable and fair and will not involve overreaching on the part of either Lincoln Life or the Fund, since the consideration paid by the Fund will equal the price paid by Lincoln Life for the Notes, plus accrued interest, and that the proposed transaction is consistent with the general purposes of the Act.

Applicants request (a) an order of the Commission pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, permitting Lincoln Life, States, Economy and the Fund to acquire respectively \$1,500,000, \$500,000, \$1,000,000 and \$2,000,000 principal amount of the Notes; and (b) an order of the Commission pursuant to Section 17(b) of the Act exempting from the provisions of Section

17(a) of the Act the transfer from Lincoln Life to the Fund of the \$2,000,000 principal amount of the Notes acquired by Lincoln Life subject to transfer to the Fund, provided that such transfer is made at a time within 90 days of the acquisition of the Notes by Lincoln Life and at a price equal to the price paid by Lincoln Life for the Notes together with an interest accrued on the Notes to be transferred from the date such Notes were purchased by Lincoln Life to the date of transfer.

Notice is further given That any interested person may, not later than May 18, 1976, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons the request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.
[FR Doc.76-12710 Filed 4-30-76; 8:45 am]

[Release No. 34-12367; File No.
SR-PBWSE-76-9]

PBW STOCK EXCHANGE Self-Regulatory Organizations

In the matter of proposed rule change by PBW Stock Exchange, Inc.

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 March 22, 1976, 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

The minimum margin requirements established by proposed Rule 722 are de-

signed to limit the extension of credit by brokers and dealers consistent with the purpose and intent of Regulation T of the Federal Reserve System. Accordingly, proposed Rule 722 prescribes minimum margin to be maintained for equity securities and debt instruments as well as put and call options. The text of proposed Rule 722 follows:

MARGIN ACCOUNTS

Rule 722. (a) The margin which must be maintained in margin accounts of customers, whether members, partners of members, member firms, member corporations or stockholders therein or non-members, shall be as follows:

1. 25% of the market value of all securities "long" in the account; plus
2. \$2.50 per share or 100% of the market value, in cash, whichever amount is greater, of each stock "short" in the account selling at less than \$5.00 per share; plus
3. \$5.00 per share or 30% of the market value, in cash, whichever amount is greater, of each stock "short" in the account selling at \$5.00 per share or above; plus
4. 5% of the principal amount or 30% of the market value, in cash, whichever amount is greater, of each bond "short" in the account.

Exceptions

(b) The foregoing requirements of this Rule are subject to the following exceptions:

1. "Long" and "Short" Positions in Exchangeable or Convertible Securities. When a security carried in a "Long" position is exchangeable or convertible within a reasonable time, without restriction other than the payment of money, into a security carried in a "short" position for the same customer, the minimum margin on such positions shall be 10% of the market value of the "long" securities. In determining such margin requirement, "short" positions shall be marked to the market.
2. Exempted Securities.

a. Positions in United States Government Obligations.

The minimum margin on any positions in obligations issued or unconditionally guaranteed as to principal or interest by the United States Government shall be 5% of the principal amount of such obligations, unless the exchange, upon written application, grants a lower requirement in the case of a particular issue.

b. Positions in "Exempted Securities" Other than Obligations of the United States Government.

The minimum margin on any positions in such obligations shall be 15% of the principal amount of such obligations or 25% of the market value, whichever amount is lower, unless the Exchange, upon written application, grants a lower requirement in the case of a particular issue.

c. Cash Transactions With Customers—Special Provisions.

When a customer purchases an issued "exempted" security from or through a

member firm or corporation, in a cash account, full payment shall be made promptly. If, however, delivery or payment therefor is not made promptly after the trade date, a deposit shall be required as if it were a margin transaction, unless it is a transaction with a bank, trust company, insurance company, investment trust or charitable or non-profit educational institution.

In connection with any net position resulting from any transaction in issued "exempted" securities made for a member firm or corporation, or a non-member broker dealer, or made for or with a bank, trust company, insurance company, investment trust or charitable or non-profit educational institution, no margin need be required and such net position need not be marked to market. However, where such net position is not marked to market, an amount equal to the loss at the market in such position shall be considered as cash required to provide margin in the computation of the Net Capital of the member firm or corporation under the Exchange's capital requirements.

(The term "exempted securities" has the meaning given it in section 2(e) of Regulation T of the Board of Governors of the Federal Reserve System.)

3. Joint Accounts in which the Carrying Member Organization or a Partner Thereof or Stockholder Therein Has an Interest. In the case of a joint account carried by a member organization in which such organization, or any member or partner or any stockholder (other than a holder of freely transferable stock only) of such member organization, participates with others, the interest of each participant other than the carrying member organization shall be margined by each such participant pursuant to the provisions of this Rule as if such interest were in a separate account. The Exchange will consider requests for exemption from the provisions of this paragraph, provided

(a) The account is confined exclusively to transactions and positions in exempted securities, as defined in Section 2(e) of Regulation T of the Board of Governors of the Federal Reserve System; or

(b) The account is maintained as a Special Miscellaneous Account conforming to the conditions of Section 4(f) (5) of Regulation T of the Board of Governors of the Federal Reserve System and is confined exclusively to transactions and positions in

(i) Serial equipment trust certificates, or

(ii) Interest bearing obligations which are the subject of a primary distribution and which are covered by the first four ratings of any nationally known statistical service.

and each other participant margins his share of such account on such basis as the Exchange may prescribe.

4. Offsetting "Long" and "Short" Positions in the Same Security. No margin shall be required on either position if delivery has been made by the use of

the "long" securities. Otherwise the minimum margin shall be 10% of the market value of the "long" securities. In determining such margin requirement "short" positions shall be marked to the market.

5. International Arbitrage Accounts. International arbitrage accounts for non-member foreign correspondents shall not be subject to this Rule. In computing, under Rule 703, the Net Capital of any member firm or member corporation carrying such an account which is not margined in accordance with the maintenance requirements hereof, the Exchange will consider as a debit item any difference between the minimum amount of margin computed in accordance with those requirements and the margin in such account.

6. Specialist-Odd Lot Dealer Accounts.

(a) The account of a specialist-odd lot dealer containing only transactions in the securities in which he is registered may be carried on a margin basis satisfactory to the specialist-odd lot dealer and the member firm or member corporation carrying the account. Any difference between the minimum margin required under this Rule and the margin deposited in the account will be considered by the Exchange as a debit item in the computation of the net capital of the carrying member firm or corporation under Rule 703.

(b) In a joint account carried by a member firm or member corporation for a specialist-odd lot dealer, which contains only transactions in the securities in which the specialist-odd lot dealer is registered, and in which the carrying firm or corporation participates, the margin deposited by the specialist-odd lot dealer may be in any mutually satisfactory amount. Any difference in the amount of margin deposited and the specialist-odd lot dealer's proportionate share of the margin required in the account under this Rule will be considered by the Exchange as a debit item in the computation of the net capital of the carrying firm or corporation under Rule 703.

Other Provisions

(d) 1. Determination of Value for Margin Purposes. Active securities dealt in on a recognized exchange shall, for margin purposes, be valued at current market prices. Other securities shall be valued conservatively in the light of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required in all cases where the securities carried are subject to unusually rapid violent changes in value, or do not have an active market on a recognized exchange, or where the amount carried is such that it cannot be liquidated promptly.

2. Puts, Calls and Other Options. (A) Except as provided below, no put or call carried for a customer shall be considered of any value for the purpose of computing the margin required in the account of such customer.

(B) Subject to the exceptions set forth in subparagraphs (E) through (I) of this

Paragraph (d) (2), the minimum margin on any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) In the case of a put or call traded in the over-the-counter market, 50% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market price of the underlying security in the case of a call, or any excess of the current market price of the underlying security over the exercise price in the case of a put; provided, however, that the minimum margin on each such put or call shall be not less than \$250; or

(ii) In the case of a put or call dealt in on a registered national securities exchange, 30% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market price of the underlying security in the case of a call, or any excess of the current market price of the underlying security over the exercise price in the case of a put; provided, however, that the minimum margin on each such put or call shall be not less than \$250.

(D) Each such put or call shall be margined separately and any difference between the market price of the underlying security and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on the particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration, or written on securities which are subject to unusually rapid or violent changes in value, or which do not have an active market, or where the securities subject to the option cannot be liquidated promptly.

(E) If both a put and a call for the same number of shares of the same underlying security are issued, guaranteed or carried "short" for a customer, the amount of margin required shall be the margin on the put or the call whichever is greater, as required pursuant to subparagraph (B) of this Paragraph (d) (2), increased by the amount of any unrealized loss on the other option. The \$250 minimum margin requirement, however, shall not apply to the other option.

(F) When a call that is dealt in on a registered national securities exchange is carried "short" for a customer's account and the account is also "long" a call dealt in on an exchange, expiring on or after the expiration date of the "short" call and written on the same number of shares of the same underlying security, the minimum margin which must be maintained in respect of the "short" position shall be the lesser of (i) the margin required pursuant to subparagraph (B) (ii) of this Paragraph (d) (2), or (ii) the amount, if any, by which the exercise price of the "long" call exceeds the exercise price of the "short" call.

When a put that is dealt in on a registered national securities exchange is

carried "short" for a customer's account and the account is also "long" a put dealt in on an exchange, expiring on or after the expiration date of the "short" put and written on the same number of shares of the same underlying security, the minimum margin which must be maintained in respect of the "short" put shall be the lesser of (i) the margin required pursuant to subparagraph (B) (i) of this Paragraph (d) (2), or (ii) the amount, if any, by which the exercise price of the "short" put exceeds the exercise price of the "long" put.

(G) When a call is issued, guaranteed or carried "short" against an existing net "long" position in an equivalent number of shares of the same underlying security or in any security exchangeable or convertible within a reasonable time without restriction other than the payment of money into an equivalent number of shares of the underlying security, no margin need be required on the call, provided (i) such net "long" position is adequately margined in accordance with this Rule and (ii) the right to exchange or convert the net "long" position does not expire on or before the expiration date of the "short" call, except that where a call is issued, guaranteed or carried "short" against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call. When a put is issued, guaranteed or carried "short" against an existing net "short" position in an equivalent number of shares of the same underlying security, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with this Rule. In determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertible securities or in the same security, as discussed in Paragraph (b) (1) and (b) (4) of this Rule, shall be deducted. In computing margin on such existing net security position carried against a "short" put or "short" call, the current market price to be used shall not be greater than the call price in the case of a call or less than the put price in the case of a put and when a payment of money is required to exchange or convert the net "long" security such security shall have no value for purposes of this Rule.

(H) No margin need be required in respect of a put or call issued, guaranteed or carried "short" for a customer's account, when (i) in the case of a call the customer has delivered to the member organization carrying such account an "escrow receipt" meeting the requirements of Rule 610 of the Options Clearing Corporation or an option guarantee letter in form satisfactory to, and issued by a custodian approved by, the Exchange, which certifies that the custodian issuing such "escrow receipt" or option guarantee letter holds for the account of the customer the underlying security represented by such call and

that such underlying security will be delivered to the member organization (or, where applicable, to the order of the Options Clearing Corporation) against payment of the aggregate exercise price of such call or (ii) in the case of a put the customer has delivered to the member organization carrying such account an option guarantee letter in form satisfactory to, and issued by a custodian approved by, the Exchange, which certifies that the custodian issuing such letter holds on deposit for the account of the customer cash in the full amount of the aggregate exercise price of such put and that such amount will be paid to the member organization against delivery of the underlying security covered by such put.

(I) Notwithstanding the other provisions of this paragraph (d) (2) the account of a person in which are effected only transactions in options in which such person is registered and acts as a specialist or market-maker on an exchange, and the account of a registered trader containing only Exchange option transactions effected by him in his capacity as a registered trader, may be cleared and carried on a margin basis which is satisfactory to the specialist, market-maker or registered trader and the member organization carrying the account.

(J) When a member, or member organization issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

3. "When Issued" and "When Distributed" Securities.

a. Margin Accounts.
The minimum amount of margin on any transaction or net position in each "when issued" security shall be the same as if such security were issued.

Each position in a "when issued" security shall be margined separately and any unrealized profit shall be of value only in providing the amount of margin required on that particular position.

When an account has a "short" position in a "when issued" security and there are held in the account securities in respect of which the "when issued" security may be issued, such "short" position shall be marked to the market and the balance in the account shall for the purpose of this rule be adjusted for any unrealized loss in such "short" position.

b. Cash Accounts.

In connection with any transaction or net position resulting from contracts for a "when issued" security in an account other than that of a member firm or member corporation, non-member broker or dealer, bank, trust company, insurance company, investment trust, charitable or non-profit educational institution, deposits shall be required equal to the margin required were such transaction or position in a margin account.

In connection with any net position resulting from contracts for a "when issued" security made for a member firm

or member corporation or, for or with a bank, trust company, insurance company, investment trust, charitable or non-profit educational institution, no margin need be required and such net position need not be marked to the market. However, where such net position is not marked to the market, an amount equal to the loss at the market in such position shall be considered as cash required to provide margin in the computation of the net capital of the member firm or member corporation under Rule 703.

The provisions of this sub-paragraph shall not apply to any position resulting from contracts on a "when issued" basis in a security.

(1) Which is the subject of a primary distribution in connection with a bona fide offering by the issuer to the general public for "cash", or

(ii) Which is exempt by the Exchange as involving a primary distribution.

The term "when issued" as used herein also means "when distributed."

4. Guaranteed Accounts. Any account guaranteed by another account may be consolidated with such other account and the required margin may be determined on the net position of both accounts, provided the guarantee is in writing and permits the member organization carrying the account, without restriction, to use the money and securities in the guaranteeing account to carry the guaranteed account or to pay any deficit therein, and provided further that such guaranteeing account is not owned directly or indirectly by (a) a member or partner or any stockholder (other than a holder of freely transferable stock only) in the organization carrying such account or (b) a member, member organization or partner thereof or any stockholder (other than a holder of freely transferable stock only) therein having a definite arrangement for participating in the commissions earned on the guaranteed account. However, the guarantee of a limited partner, if based upon his resources other than his capital contribution to a member firm, or the guarantee of a holder of non-voting stock if based upon his resources other than his interest in a member corporation is not affected by the foregoing prohibition, and such a guarantee may be taken into consideration in computing margin in the guaranteed account.

5. Consolidation of Accounts. When two or more accounts are carried for any person or entity, the required margin may be determined on the net position of said accounts, provided the customer has consented that the money and securities in each of such accounts may be used to carry, or pay any deficit in, all such accounts.

6. Time Within Which Margin, Deposit or "Mark to Market" Must Be Obtained. The amount of margin, deposit or "mark to market" required by any provisions of this rule shall be obtained as promptly as possible and in any event within a reasonable time.

7. Practice of Meeting Margin Calls by Liquidation Prohibited. No member, member firm or member corporation shall permit a customer to make a practice of effecting transactions requiring margin and then either deferring the furnishing of margin beyond the time when such transactions would ordinarily be settled or cleared, or meeting such demand for margin by the liquidation of the same or other commitments in his account.

(e) Notwithstanding any other provision of this Rule, the Exchange may, whenever it shall determine that market conditions so warrant, prescribe:

(1) Higher margin deposits for the purpose of effecting new securities transactions and commitments in margin accounts of customers with respect to specific securities traded on the Exchange,

(2) Higher margin requirements which must be maintained in margin accounts of customers with respect to such securities, and

(3) Such other terms and conditions as the Exchange shall deem appropriate relating to initial margin deposits and margin maintenance requirements in margin accounts of customers with respect to such securities.

0.1 For purposes of this Rule, all valuations shall be based on current market prices unless the specific provisions of the Rule otherwise provide.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

Purpose of the Proposed Rule Amendments

Existing Rule 722 of the Exchange, pertaining to margin account, is rescinded in order that a new Rule 722 be adopted. Rule 1054 of the Exchange, pertaining to margin requirements with respect to call options, is rescinded in order to include its provisions in proposed Rule 722. Proposed Rule 722 also includes specific treatment of put options for margin purposes, which treatment had not been specifically provided for under previously existing Rule 722.

Basis Under the Act for the Adoption of the Proposed Amendments

The basis under the Act for the adoption of the proposed amendments is Section 6(b)(5) of the Act, which section requires an Exchange to have rules which are designed to protect investors and the public interest.

(i) Inapplicable.

(ii) The proposed amendments will in no way prevent a broker or dealer, or natural person associated with a registered broker or dealer, from becoming a member of the Exchange.

(iii) Inapplicable.

(iv) Inapplicable.

(v) The proposed rule amendments relate to the ability of the Exchange to protect investors and the public interest in that it establishes minimum margin requirements designed to limit the extension of credit by brokers and dealers consistent with the purpose and intent

of Regulation T of the Federal Reserve System.

(vi) Inapplicable.

(vii) Inapplicable.

Comments Received From Members, Participants or Others on Proposed Rule

Comments were not solicited or received from members of or participants in this Exchange or others.

Burden on Competition

It is the opinion of this Exchange that such proposed rule change imposes no burden 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 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 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 within twenty-one days of the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1976.

[FR Doc. 76-12711 Filed 4-30-76; 8:45 am]

[Release No. 34-12368; File No. SR-PBWSE-76-1]

PBW STOCK EXCHANGE, INC. Self-Regulatory Organizations

In the matter of proposed rule change by PBW Stock Exchange, Inc.

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 February 18, 1976, 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

In order for the Exchange to comply with the Securities Acts Amendments of 1975, which, among other things, require 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 703 and 791 (to be rescinded) 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. The text of Rule 703, as it would be amended, follows:

CAPITAL REQUIREMENTS FOR INDIVIDUAL MEMBERS AND MEMBER ORGANIZATIONS

Rule 703. (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 the additional requirements of this Rule 703.

(b) Each member or member organization subject to this Rule shall forthwith notify the Exchange in writing 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 net capital is less than 120 percent of the minimum required under Rule 15c3-1 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, when applicable, exceeds 1000 percent, or

3. If the specified percentage of aggregate debt 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 debt items thereunder.

(c) 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.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF THE PROPOSED RULE AMENDMENTS

The proposed amendments will conform the Exchange Capital Rule to the Securities and Exchange Commission Rule 15c3-1.

As to the individual rule amendments, they will specifically do the following:

Rule 703—Capital Requirements

Rescind the existing Rule 703 and adopt a proposed Rule 703 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 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 is intended that such provision pertaining to greater net capital or net worth requirements, including more stringent treatment of certain items, shall be used sparingly and only in exceptional or unusual circumstances consistent with the Exchange's responsibilities under Section 17(d) of the Securities Exchange Act of 1934.

Rule 791 (Net Capital of Member Corporation Requirements)

This rule provides certain minimum capital requirements for members or member organizations. The uniform net capital rule does away with the need for this rule and it is, therefore, being rescinded in its entirety.

BASIS UNDER THE ACT FOR THE ADOPTION OF THE PROPOSED AMENDMENTS

As referred to in the response to item 3, the amendments to Rules 703 and 791 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(b) (5) of the Securities Exchange Act of 1934 which Section requires an Exchange to have rules which are designed to protect investors and the public interest.

(i) The PBW 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 brokers or dealer in securities who are associated with a member of the Exchange.

(ii) The proposed amendments will in no way 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 requirement rules of the Exchange and the Securities and Exchange Commission.

(iii) Inapplicable.

(iv) Inapplicable.

(v) The proposed rule amendments relate to the ability of the Exchange to protect investors and the public interest in that (1) they establish 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.

(vi) Inapplicable.

(vii) Inapplicable.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE

All of the proposed amendments are related to the requirements of the Securities and Exchange Commission's Minimum Net Capital Requirement Rule 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. 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. 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 within twenty-one days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1976.

[FR Doc.76-12712 Filed 4-30-76;8:45 am]

[Release No. 12373; SR-CBOE-76-7]

CHICAGO BOARD OPTIONS EXCHANGE, INC.**Order Extending Time Period Within Which the Commission is Required To Act on Proposed Rule Changes**

APRIL 23, 1976.

In the Matter of Chicago Board Options Exchange, Inc. LaSalle at Jackson, Chicago, Illinois 60604.

The Chicago Board Options Exchange, Inc. ("CBOE"), has filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(s)(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b-4, a proposed new CBOE Rule 14.5(b,c and d) to regulate Commission charges by the CBOE Board Brokers.¹

Proposed new CBOE Rule 14.5(b,c and d) covered by File No. SR-CBOE-76-7 would, among other things, provide that Board Brokers shall: (1) charge, in accordance with a schedule determined by the individual Board Broker, a commission or other charge which shall be non-discriminatory (uniform) among customers (brokers) respecting orders involving the same quantity and same price per option unit; (2) charge rates which shall not be unreasonably high; (3) charge only in respect to executed orders and not make any charge for other services (i.e., by "unbundling" charges for services, such as reports and cancellation of orders); (4) charge rates which are net and free from any rebate, direct or indirect; (5) visibly display such schedule of charges at the Board Broker's post; (6) post any rate schedule changes for not less than 5 days prior to implementing them; and (7) provide equal access by customers to all available Board Broker services.

Among the questions which appear to be raised with respect to the foregoing proposal to regulate certain practices of CBOE Board Brokers are whether:

(1) The prohibition of price discrimination in the manner set forth in the proposal and the prohibition of rebates are necessary or appropriate burdens on competition, in light of the compliance procedures likely to be associated with such provisions, in order to prevent unfair discrimination in accordance with Section 6(b)(5) of the Act;

(2) A prohibition of unreasonably high rates is an effective implementation of the requirement of Section 6(b)(5) that exchange rules be designed to promote just and equitable principles of trade and protect investors and the public interest;

(3) A prohibition of unbundling of services by CBOE Board Brokers is a necessary or appropriate burden on competition in order to promote the efficiency of the CBOE marketplace; and

¹ Proposed CBOE Rule 14.5(b,c and d) set forth in File No. SR-CBOE-76-7 was filed as an alternative to the rule proposal contained in File No. SR-CBOE-76-2 which, among other things, eliminated existing CBOE Rule 14.5(b,c). See Securities Exchange Act Releases Nos. 12358 and 12359 (April 22, 1976).

(4) The requirement for five day notice prior to any change in posted rates would facilitate transactions in securities, remove impediments to a free and open market or constitute a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

As a result of its preliminary review of the CBOE proposal the Commission believes that the proposal raises a number of questions which should receive further consideration before any determination by the Commission to approve the rule proposals or to institute proceedings, pursuant to Section 19(b)(2) of the Act, to determine whether they should be disapproved.

Accordingly, the Commission, acting pursuant to Section 19(b)(2) of the Act, hereby extends the time period within which the Commission is to take action on the above-referenced proposed rule changes to July 12, 1976. The Commission is also extending the time period for comments on the proposed rule changes, and invites written submissions from all interested persons. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 by June 20, 1976.

Copies of all submissions, including the proposed rule changes, will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the proposed rule change will also be available at the principal office of the CBOE.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-12759 Filed 4-30-76; 8:45 am]

[Release No. 12377; SR-NYSE-76-16]

NEW YORK STOCK EXCHANGE, INC.
Order Approving Proposed Rule Change

APRIL 26, 1976.

In the Matter of New York Stock Exchange, Inc., Eleven Wall Street, New York, New York 10005.

On March 11, 1976, the New York Stock Exchange, Inc. 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 would permit Exchange members, without Exchange approval, to share unsegregated office space and other expenses with non-securities organizations or individuals and to share segregated office space with non-members in a securities or commodities business.

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. 12205 (March 15, 1976)) and by publication in

the FEDERAL REGISTER (41 Fed. Reg. 11898 (March 22, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on March 11, 1976, 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. 76-12760 Filed 4-30-76; 8:45 am]

[Release No. 34-12366; File No. SR-NYSE-76-21]

NEW YORK STOCK EXCHANGE, INC.
Self-Regulatory Organizations

In the matter of proposed rule change by New York Stock Exchange, Inc.

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. 94-26, 16 (June 4, 1975), notice is hereby given that on March 22, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGES

New Language Italicized.
Deleted Language [Bracketed].

MARGIN REQUIREMENTS

Rule 431(d)(2) Puts, Calls and Other Options. (A) Except as provided below, no put or call carried for a customer shall be considered of any value for the purpose of computing the margin required in the account of such customer.

(B) The issuance, guarantee or sale (other than a "long" sale) for a customer of a put or a call shall be considered as a security transaction subject to paragraph (a) of this Rule.

(C) The minimum margin on any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) In the case of puts and calls traded in the over-the-counter market, 50% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market price of the underlying security, in the case of a call, or any excess of the current market price of the underlying security over the exercise price, in the case of a put, or;

(ii) In the case of puts and calls listed or traded on a registered national securities exchange, 30% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current

market price of the underlying security, in the case of a call, or any excess of the current market price of the underlying security over the exercise price, in the case of a put.

Notwithstanding the foregoing, the minimum margin on any and each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than \$250.

(D) Each such put or call shall be margined separately and any difference between the market price of the underlying security and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration (generally, more than six months and ten days), or written on securities which are subject to unusually rapid or violent changes in value, or which do not have an active market, or where the securities subject to the option cannot be liquidated promptly.

(E) If both a put and call for the same number of shares of the same security are issued, guaranteed or carried "short" for a customer, the amount of margin required shall be the margin on the put or call whichever is greater, as required pursuant to (C) above, plus any unrealized loss on the other option. The \$250 minimum margin requirement, however, shall not apply to the other option. [except that (i) both the put and call shall each be subject to a minimum requirement of \$250 and (ii) if there is unrealized loss on both the put and the call, the amount of margin required shall be not less than the combined unrealized loss of both the put and the call.]

(F) Where a call that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange, expiring on or before the date of expiration of the "long" listed call and, written on the same number of shares of the same security, the margin required on the "short" call shall be the lower of (i) the margin required pursuant to (C) (ii) above or (ii) the amount, if any, by which the exercise price of the "long" call exceeds the exercise price of the "short" call.

Where a put that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a put listed or traded on a registered national securities exchange, expiring on or before the date of expiration of the "long" listed put and, written on the same number of shares of the same security, the margin required on the "short" put shall be the lower of (i) the margin required pursuant to (C) (ii) above or (ii) the amount, if any, by which the exercise price of the "short" put exceeds the exercise price of the "long" put.

(G) Where a call is issued, guaranteed or carried "short" against an existing net "long" position in the security under option or in any security exchangeable or convertible within a reasonable time without restriction other than the payment of money into the security under option, no margin need be required on the call, provided (i) such net long position is adequately margined in accordance with this Rule and (ii) the right to exchange or convert the net "long" position does not expire on or before the date of expiration of the "short" call except that where a call is issued, guaranteed or carried "short" against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call. Where a put is issued, guaranteed or carried "short" against an existing net "short" position in the security under option, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with this Rule. In determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertible securities or in the same security, as discussed in Paragraphs (c) (1) and (c) (4) of this Rule, shall be deducted. In computing margin on such an existing net stock position carried against a put or call, the current market price to be used shall not be greater than the call price in the case of a call or less than the put price in the case of a put [.] and when a payment of money is required to exchange or convert the net "long" security such security shall have no value for purposes of this Rule.

(H) When a member, or member organization issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

(I) Notwithstanding the other provisions of this paragraph (d) (2), a member organization may clear and carry the listed option transactions of one or more registered specialist(s), registered market-maker(s) or registered trader(s) in options, upon a margin basis satisfactory to the concerned parties, provided the prior written approval of the Exchange is obtained.

No member organization may, however, clear and carry the listed option transactions of such registered specialists, registered market-makers or registered traders if application of the other provisions of paragraph (d) (2) creates, in the aggregate for all such business cleared and carried, a "cash margin deficiency" which exceeds a percentage of such member organization's excess net capital as prescribed from time to time by the Exchange.

The Exchange may at any time, and from time to time, require proof of compliance with this provision.

Purpose of the Amendments to Rule 431 (d) (2)

The main purpose of the proposed addition to Exchange Rule 431(d) (2)

(F) (see "Text of Proposed Rule Change" hereinabove) is to provide appropriate minimum margin requirements for "put" options that are listed or traded on a national securities exchange. In general, this amendment as well as the other proposals set forth in Rule 431(d) (2) are designed to further establish uniform industry standards in connection with options margin requirements. In this regard, the Exchange has taken into account the recent proposals and pronouncements of the American Stock Exchange and the Chicago Board Options Exchange relative to "put" options.

Basis Under the Act for the Adoption of the Amendments to Rule 431(d) (2)

Rule 431(d) (2) is based upon Section 6(b) (5) of the Act which provides that the rules of an exchange shall be designed to foster cooperation and coordination with persons engaged in regulating transactions in securities.

(v) As discussed hereinabove, Rule 431(d) (2) is designed to establish uniform standards for the maintenance of margin on transactions in options which, if adopted, will remove impediments to and perfect the mechanism of a free and open market and a national market system.

Items (i) through (iv) and (vi) through (viii) are inapplicable.

Comments Received From Members, Participants or Others on Proposed Rule Changes

No comments were solicited nor were any written comments received with respect to the proposed Rule amendments.

Burden of 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 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 all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., 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 twenty-one days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1976.

[FR Doc.76-12761 Filed 4-30-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, May 26, 1976, from 9:00 a.m. to 5:30 p.m., in conference room S. 5215 of the Department of Labor, Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552(b) (1) (the exception to the Freedom of Information Act for information specifically required by Executive order to be kept secret in the interest of foreign policy of the United States) will be reviewed and discussed.

More detailed information can be obtained by contacting Paul T. O'Day, Assistant Special Representative for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PAUL T. O'DAY,
Assistant Special Representative
for Trade Negotiations.

[FR Doc.76-12725 Filed 4-30-76;8:45 am]

VETERANS ADMINISTRATION

COOPERATIVE STUDIES EVALUATION COMMITTEE

Notice of Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in Room 119 of the main Veterans Administration building, 810 Vermont Avenue, NW, Washington, DC, on June 21 and 22, 1976. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the propriety of technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., June 21, to discuss

the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, DC, (202-389-3702) prior to June 4.

The meeting will be closed from 8:30 a.m. to 5 p.m. June 21 and all day on June 22 for consideration of specific proposals in accordance with provisions set forth in Section 10(d) of Public Law 92-463 and Sections 552(b) (2) and 552(b) (6) of Title 5, U.S. Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute an invasion of personal privacy.

Dated: April 26, 1976.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-12779 Filed 4-30-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

SHIPMENT OF FOODS, DRUGS, AND COSMETICS; EXCHANGE OF INFORMATION

Memorandum of Understanding With the Food and Drug Administration

CROSS REFERENCE: For a document on a memorandum of understanding with the Food and Drug Administration, see the notice under the Food and Drug Administration published elsewhere in this issue of the FEDERAL REGISTER.

[AB 19 Sub-No. 19]

BALTIMORE AND OHIO RAILROAD COMPANY ABANDONMENT PORTION OF THE OHIO AND LITTLE KANAWHA BRANCH BETWEEN RELIEF AND PHILO, IN MUSKINGUM, MORGAN, AND WASHINGTON COUNTIES, OHIO

APRIL 28, 1976.

Present: Virginia Mae Brown, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

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 Muskingum, Morgan, and Washington Counties, Ohio on or before May 12, 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 21st day of April 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

The Interstate Commerce Commission hereby gives notice that by order dated April 21, 1976, it has been determined that the proposed abandonment of the Baltimore and Ohio Railroad Company branch line extending 35.81 miles plus 1.83 miles of side track and 13 turnouts between Relief and Philo, in Muskingum, Morgan, and Washington Counties, Ohio, 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 diversion of the current rail traffic to truck would have a minimal impact on the environment of the region. In addition, no industrial development is occurring in the area which could be affected by the subject action and rail service would remain available at the Philo station.

Public interest has been expressed for purchase of the subject right-of-way for public recreation use. Of prime importance is the location of the rail corridor in relation to the Columbus metropolitan area and that the Statewide Buckeye Trail crosses the instant line in Morgan County. This linear park would expand the recreation use facilities along the Muskingum River as well as the public park at Big Bottom.

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 May 27, 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.

[FR Doc.76-12806 Filed 4-30-76;8:45 am]

[AB 19 (Sub-No. 22)]

BALTIMORE AND OHIO RAILROAD COMPANY ABANDONMENT PORTION OF THE LAKE BRANCH BETWEEN NORTH WARREN AND CHARDON, IN TRUMBULL AND GEauga COUNTIES, OHIO

APRIL 28, 1976.

Present: Virginia Mae Brown, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

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 Trumbull and Geauga Counties, Ohio, on or before May 12, 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 21st day of April, 1976.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

The Interstate Commerce Commission hereby gives notice that by order dated April 21, 1976, it has been determined that the proposed abandonment by the Baltimore and Ohio Railroad Company of a portion of its Lake Branch extending approximately 29.7 miles between North Warren and Chardon through Trumbull and Geauga Counties, Ohio, 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 traffic over the portion of the Lake Branch proposed for abandonment is low and the diversion of traffic to motor carriers should have a minimal effect on energy consumption and air pollution emissions. Although loss of the subject is inconsistent with land use plans for the region and could ultimately reduce the

attractiveness of the area for industrial development, the impact should not be significant due primarily to the availability of alternate transportation. The area is served by a good highway system and a number of alternate rail lines are located in close proximity. The rest of the Lake Branch will continue to be served by the applicant either via a trackage rights agreement over the Norfolk and Western Railway Company line or the Penn Central Transportation Company line (ConRail) between Cleveland and Painesville, or switching occurring with either of the above lines at Painesville. Although the new route may be more circuitous for some of the traffic handled by the Branch, the overall environmental impact should not be significant. Several state agencies have expressed interest in acquiring portions of the right-of-way for public use if the abandonment is approved.

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) 275-7692.

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 May 27, 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.

[FR Doc.76-12807 Filed 4-30-76;8:45 am]

[Notice No. 37]

ASSIGNMENT OF HEARINGS

APRIL 27, 1976.

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.

AB 7 (Sub 20), Chicago, Milwaukee, St. Paul and Pacific Railroad Company Abandonment between Waukesha and Whitewater, In Waukesha, Jefferson, and Walworth Counties, Wisconsin, now being assigned June 3, 1976 (2 days), at Whitewater, Wisconsin, and will be held at the Whitewater Armory Building, 149 North Street.

MC-F-12312, Whitfield Transportation, Inc.—Purchase (Portion)—Lee Hawkes Transfer & Whitfield Transportation, Inc.—Control and Merger—Miller Bros. Truck Line and MC 108461 Sub 123, Whitfield Transportation, Inc., now assigned August 9, 1976, at Salt Lake City, Utah, will be held in the Tri-Arc Travel Lodge, 161 West 6th South, instead of Royal Inn, 206 S.W. Temple.

MC 59135 (Sub 31), Red Star Express Lines of Auburn, Inc., dba Red Star Express Lines now being assigned July 12, 1976 (1 week), at Pittsburgh and July 19, 1976 (1 week), at New York, New York, in hearing room to be designated.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12803 Filed 4-30-76;8:45 am]

[Notice No. 56]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 28, 1976.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 C.F.R. § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50307 (Sub-No. 77TA), filed April 21, 1976. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th

St., New York, N.Y. 10001. Applicant's representative: Herbert Burstein, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and equipment used in the manufacture of wearing apparel*, between Morgantown, W. Va.; and Mayfield and Cleveland, Ohio; and points in Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: (1) Westland Manufacturing Corporation, Lincoln Highway, East, Greensburg, Pa. 15601. (2) L. N. Gross Company, 701 Beta Drive, Mayfield Village, Ohio 44143. (3) Charland Sportswear Corporation, 1002 Arentzen Blvd., Charleroi, Pa. 15022. (4) Morgan Shirt Company, Inc., POB 597 Morgantown, W. Va. 26504; and (5) Perry Manufacturing Corp., POB 458, Perryopolis, Pa. 15473. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 51146 (Sub-No. 460TA), filed April 1, 1976. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from points in Stone County, Miss., to points in Minnesota, Iowa, Illinois, Wisconsin, Michigan, Ohio, Indiana, Kentucky, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia; and (2) *Materials and supplies used in the manufacture of paper and paper products*, from points in the destination states named in (1) above, to points in Stone County, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dunn Paper Company, 218 Riverview St., Port Huron, Wis. 48060. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 59150 (Sub-No. 93TA), filed April 22, 1976. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board and paneling*, from the plantsite and warehouse facility of Plywood Panels, Inc., New Orleans, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee, for 180 days. Applicant has

also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Plywood Panels, Inc., P.O. Box 15435, Mapolean Ave., New Orleans, La. 70175. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 35008, 400 West Bay St., Jacksonville, Fla. 32202.

No. MC 61396 (Sub-No. 307TA), filed April 21, 1976. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith II (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Mine safety dust*, in bulk and in bags, from East Stone Gap, Va., to points in Kentucky, for 180 days. Supporting shipper: Russell O. Large, President, Marty Materials Co., Div. of Marty Corporation, P.O. Box 310, Coeburn, Va. 24230. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 107403 (Sub-No. 971), TA, filed April 15, 1976. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sulphur hexafluoride*, in bulk, in shipper-provided trailers, from Metropolis, Ill., to East Chicago, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Chemical Corporation, P.O. Box 1087R, Morristown, N.J. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 646 TA), filed April 22, 1976. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Critical machinery repair and replacement parts and bearings*, in packages not to exceed 65 pounds each and 200 pounds in the aggregate, between Dubuque and Fort Madison, Iowa, on the one hand, and, on the other, Chicago Heights, Danville, Decatur, Joliet, Moline, Peoria, Peru, Quincy, Rockford, and Springfield, Ill., for 180 days. Supporting shipper: Berry Bearing Company 1920 5th Ave., Moline, Ill. Send protests to: Anthony D. Gialmo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113760 (Sub-No. 10TA), filed April 21, 1976. Applicant: PETCO INC. INTERSTATE, 6727 Dahlia, Commerce City, Colo. 80023. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln

Center Bldg., 1660 Lincoln St., Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Sinclair, Wyo., to points in Routt, Moffatt, and Rio Blanco Counties, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Wington Oil Co., P.O. Box 39, Meeker, Colo. 81641. Standard Oil Co., P.O. Box 1025, Craig, Colo. 81625. Lyster Oil Co., 690 W. Victory, Craig, Colo. 81625. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 119118 (Sub-No. 49TA), filed April 20, 1976. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: Lawrence C. Maston (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from South Volney, N.Y., to points in Delaware, Washington, D.C., Maryland, New Jersey, New York, and Pennsylvania; and empty malt beverage containers on return, for 180 days. Supporting shipper: Miller Brewing Company, 4000 West State St., Milwaukee, Wis. 53208. Send protests to: Richard C. Gobbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 139495 (Sub-No. 142TA), filed April 9, 1976. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Libera, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1030 Federal Bar Bldg. West, 1819 H St., N.W., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Red clay pottery, flower pots and saucers*, from Houston, Tex., to points in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and New Mexico (except Lamar, La. Junta, and Springfield, Colo., and Clovis, N. Mex.), for 180 days. Supporting shipper: CDP Corporation, 401 North Velasco, P.O. Box 125, Houston, Tex. 77003. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12802 Filed 4-30-76; 8:45 am]

[Notice No. 240]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 3, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC-76543. By application filed April 26, 1976, CITY DELIVERY SERVICE, INC., P.O. Box 722, Boise, Idaho 83701, seeks temporary authority to lease a portion of the operating rights of CLARENCE VOGT, dba VOGT TRANSFER & STORAGE CO., P.O. Box 565, Ontario, Oregon, 97914, under section 210a(b). The transfer to CITY DELIVERY SERVICE, INC., of a portion of the operating rights of CLARENCE VOGT, dba VOGT TRANSFER & STORAGE CO., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12804 Filed 4-30-76; 8:45 am]

[Notice No. 239]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76458, filed April 5, 1976. Transferee: DIXIE CABLE CORP., 2540 N.W. 74th Street, Miami, Florida 33147. Transferor: KNIFFIN TRANSFER CO., A CORPORATION, 790 N.W. 22nd Street, Miami, Florida 37331. Applicants' representative: John P. Bond, Esq., 2766 Douglas Road, Miami, Florida 33133. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-10499, issued

June 9, 1960, authorizing the transportation of general commodities, over irregular routes, between Miami, Fla., on the one hand, and on the other, points within ten miles of Miami, including Miami; structural steel, copper cable, boats, piling, trees, telephone poles, and heavy machinery requiring specialized handling or rigging because of size or weight, between points within 25 miles of Miami, Fla., including Miami; and Certificate of Registration No. MC-10499 (Sub-No. 2), issued April 7, 1965, authorizing a right to engage in transportation in interstate commerce corresponding in scope to certificate of public convenience and necessity No. 3, dated September 28, 1960, as amended January 27, 1961, issued by the Florida Railroad and Public Utilities Commission. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-76482, filed March 24, 1976. Transferee: BEARD TRUCK LINE, INC., P.O. Box 276, Sardis, Miss. 38666. Transferor: JAMES B. BEARD, Jr., doing business as BEARD TRUCK LINE, P.O. Box 276, Sardis, Miss. 38666. Applicants' representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC-29894 and Sub-No. 6, issued April 4, 1957 and September 26, 1963, respectively, as follows: Certificate

No. MC-29894 authorizes the transportation of general commodities, over regular routes, between Sardis, Miss., and Memphis, Tenn., serving the intermediate points of Como and Senatobia, Miss., and the off-route points of Coldwater and Batesville, Miss. Certificate No. MC-29894 Sub-No. 6 authorizes the transportation of general commodities, over regular routes, between Sardis, Miss., and Oakland, Miss., serving the intermediate points of Courtland, Pope, and Enid, Miss. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-76506, filed April 5, 1976. Transferee: MADISON TRANSPORTATION, INC., P.O. Box 421, Madison, Indiana 47250. Transferor: MADISON RIVER TERMINAL, INC., P.O. Box 253, Madison, Indiana 47250. Applicants representative: ROBERT W. LOSER II, Attorney at Law, 1009 Chamber of Commerce Building, Indianapolis, Indiana 46204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. 133139 and MC-133139 (Sub-No. 3), issued September 11, 1972, and June 9, 1975, respectively, authorizing the transportation of Dry bulk commodities (not including cement) in bulk, in dump trucks or other similar type self-unloading equipment; pig iron and ferro alloys, in dump vehicles or other similar type self-unloading equipment; and coal, from and to specified points in Kentucky, Ohio, and Indiana. Transferee presently

holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76524, filed April 14, 1976. Transferee: LAVIN BROTHERS FILM DELIVERY SERVICE, INC., 6328 North Richmond, Chicago, Illinois 60659. Transferor: WILLIAM LAVIN, an individual, D/B/A LAVIN BROTHERS FILM DELIVERY SERVICE, 6328 North Richmond, Chicago, Illinois 60659. Applicants' representative: David R. Kugler, Attorney, 100 North LaSalle Street, Chicago, Illinois 60602. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-61822, issued June 27, 1975, as follows: motion picture theatre supplies and accessories, between Chicago, Ill., on the one hand, and, on the other, points in that part of Illinois bounded by a line beginning at Chicago, Ill., and extending along Illinois Highway 42 to the Illinois-Wisconsin State line, and thence along Illinois Highway 41, thence along U.S. Highway 41 to junction Illinois Highway 42A, and thence along Illinois Highway 42A to Chicago, Ill., including points on the indicated portions of the highways specified. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12805 Filed 4-30-76;8:45 am]

federal register

MONDAY, MAY 3, 1976



PART II:

ENVIRONMENTAL PROTECTION AGENCY

**Preparation, Adoption,
and Submittal of
Implementation Plans**



**Maintenance of National Ambient Air
Quality Standards Summary**

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCYPART 51—PREPARATION, ADOPTION,
AND SUBMITTAL OF IMPLEMENTATION
PLANSMaintenance of National Ambient Air
Quality Standards—Summary

The regulations promulgated below pertain to the analysis and development of plans for air quality maintenance areas (AQMAs), required under 40 CFR 51.12. The regulations specify procedures to be used for estimating future air quality concentrations and for developing new control strategies necessary to ensure the maintenance of the national ambient air quality standards. They specify the approvable form and content of the analysis and State implementation plan revisions required in AQMAs. The Regional Administrators can also require States to follow these procedures for major plan revisions for attainment and maintenance in areas other than the designated AQMAs. Briefly, the process described in these regulations consists of the following tasks:

- Projecting emissions into the future.
 - Allocating emissions according to estimated projections of location.
 - Calculating air quality resulting from the future emission pattern.
 - Developing a control strategy if needed to maintain the national ambient air quality standards.
 - Adopting regulations to make the control strategy enforceable.
- As noted in the preamble to the proposal (40 FR 49048), these regulations merely set up the technical and procedural framework for the States to develop implementation plan revisions. The regulations leave entirely in the hands of the States the choice of substantive measures that are needed to maintain the national air quality standards. Accordingly, the only direct economic impact of these regulations is the possible increased costs incurred by governmental agencies to analyze air quality and develop needed control measures where they would not have done so anyway. For the same reason the precise environmental impact of these regulations will only be ascertainable at the time the implementation plans are revised. All that can be said about the present environmental impact is that these regulations are designed to accommodate a clear demand of the Clean Air Act—that the public health and welfare be protected through the national ambient air quality standards (NAAQS).

BACKGROUND

The October 20, 1975, preamble to the proposed regulations (40 FR 49048) contains a substantial amount of background material that is not repeated in this preamble. The reader interested in such material as it relates to the amendments promulgated today can read the October 20 proposal. Some of the items discussed in that preamble, but not discussed in today's preamble include the

background to these regulations; the 13 volumes of Guidelines for Air Quality Maintenance Planning and Analysis, which play an integral role in these regulations; and the relationship of these regulations to significant deterioration regulations and the Energy Supply and Environmental Coordination Act of 1974. The form of the promulgated regulation has been changed from that of the proposed regulation in order to clarify and shorten the format.

Comments on the proposed regulations were invited from interested persons. EPA received written comments from 34 groups including State and local governments, industrial organizations and special interest groups. In addition, comments were obtained as a result of discussions with other federal agencies and representatives of State and local government. Although some of the commenters supported the regulations, some felt the regulations as a whole or in part were illegal. Some comments led to changes or additions to the regulations. Others brought about editorial changes. The comments and changes are discussed below.

COMMENTS OF A LEGAL NATURE

1. *Technological and economic feasibility.* The American Iron and Steel Institute recommended that EPA require the States to demonstrate the technical and economic feasibility of any implementation plan revisions, as well as their cost-benefit and energy-environmental impacts. While the States are free to consider and presumably will consider such matters, EPA does not believe the Act authorizes disapproval of implementation plans on such grounds. The Supreme Court has ruled that EPA must approve a plan which meets the requirements enumerated in § 110(a)(2) of the Act, and the requirements urged by AISI are not among them. *NRDC v. Train*, 421 U.S. 60 (1975). The specific question of EPA's ability or obligation to review SIPs for technological and economic feasibility is now before the Supreme Court in *Union Electric Corp. v. EPA* (No. 74-1542, oral argument held on January 20, 1976). Should EPA's position not be affirmed by the Supreme Court in this case, additional revisions to 40 CFR Part 51 may be necessary.

2. *Prevention of violations of standards.* The City of Evansville, Indiana, has raised legal objections to these regulations. Evansville's first argument is that the Clean Air Act does not require that implementation plans contain measures designed to prevent the violation of ambient standards where such violations do not now exist. Evansville argues, moreover, that the requirements in §§ 110(a)(2)(D) and 110(a)(4) (relating to preconstruction review of sources subject to new source performance standards under § 111) are the only preventive measures authorized by the Act.

EPA disagrees with this contention. The preconstruction review requirement cited by Evansville is listed in Section 110 as a measure which all plans must con-

tain as a minimum. There is nothing in the Act or its legislative history which indicates that such a requirement is the sole authorized maintenance measure. In fact, § 110(a)(2)(B) demands that all plans contain "emission limitations * * * and such other measures as may be necessary to insure attainment and maintenance" of the ambient standards, "including, but not limited to, land use and transportation controls" (emphasis added).

Moreover, the Act constantly cites its aim to be the "prevention and control" of air pollution. See, e.g., §§ 101(a)(3), 101(a)(4), 101(b)(2), 101(b)(3), 102(a), 103(a), 104(a), 105(a)(1)(A), 302(b)(2). And the legislative history of the Act explicitly provides:

In areas where current air pollution levels are already equal to, or better than, the air quality goals [EPA] should not approve any implementation plan which does not provide, to the maximum extent practicable, for the continued maintenance of such air quality.

Senate Report No. 91-1196, 91st Congress, 2nd Session (1970), page 11.

3. *State sovereignty.* Another argument raised by several commenters is that the new part 51 regulations are an unconstitutional intrusion by the Federal Government into State and local sovereignty. Evansville cites three recent appellate cases for this proposition: *Brown v. EPA*, 521 F.2d 827 (9th Cir. 1975); *Maryland v. EPA*, 8 ERC 1105 (4th Cir. 1975); and *District of Columbia v. Train*, 521 F.2d 971 (D.C. Cir. 1975). This argument reflects a serious misunderstanding of both the nature of these part 51 regulations and the above-cited cases.

First, the commenters have erroneously characterized these regulations as imposing federal land use controls. EPA is not seeking to, and does not, impose federal land use measures anywhere through these regulations. EPA is merely seeking the submission of plans developed by States (and/or local governments) which contain "emission limitations * * * and such other measures as may be necessary" to insure maintenance of the ambient standards. Under § 110(a)(2)(B) of the Clean Air Act, EPA can do no less.

If a State submits a plan which insures maintenance of the standards solely through emission limitations and contains no land use or transportation measures whatever, EPA will approve it. As stated in the introduction to the proposal of these regulations:

The proposed regulations set up the technical and procedural framework for the States to develop revisions to their implementation plans to cover maintenance. The regulations leave entirely in the hands of the States the choice of measures that are needed to maintain the national air quality standards. EPA intends to be flexible with regard to these plans to allow maximum consideration of varying local conditions. 40 F.R. 49048, October 20, 1975.

Second, in order to establish the irrelevance of the above-cited *Brown*, *Maryland*, and *D.C.* cases to these part 51 regulations, it would be helpful first

to review certain Clean Air Act fundamentals. The enforcement provisions of the Act are in § 113. EPA may only enforce against violations of an "applicable implementation plan," and therefore no enforcement remedies lie against a State for failure to follow the regulations promulgated below. Regulations published in 40 CFR part 51 contain "requirements" for the States only in the sense that they tell the States what must be done in order to secure plan approval. The Act provides only one sanction for a State's failure to comply with a part 51 regulation: EPA may promulgate its own plan provision under § 110(c).

Part 51 regulations were not at issue in the *Brown, Maryland*, and *D.C.* cases. In each of those cases, EPA had promulgated implementation plan provisions under § 110(c) (therefore enforceable under § 113) which required the States to implement certain transportation control measures. The rulings in these cases neither held nor implied that EPA could not prescribe minimum requirements in part 51 which merely inform the States and the public what "must" be done in order to secure plan approval.

4. *AQMA plans as plan revisions.* The Natural Resources Defense Council (NRDC) has raised legal objections to the proposal. NRDC objects to the October 20th preamble's use of the term "plan revisions" to describe the measures which will be submitted in response to these new part 51 regulations. It is the Administrator's judgment that the measures which will be submitted in response to these part 51 regulations will be plan "revisions" as contemplated by the Act. It must be remembered that EPA approved all plans regarding maintenance on May 31, 1972 (37 FR 10842). It was only as a result of a Court order obtained by NRDC (*NRDC v. EPA*, 475 F.2d 968 (D.C. Cir. 1973)) that EPA disapproved the plans for maintenance in 1973. In effect, EPA found, after reviewing the plans for maintenance as ordered by the Court, that the plans approved in 1972 were "substantially inadequate" as contemplated by §§ 110(a) (2) (H) (ii). When this section applies, EPA is to call for plan "revisions."

NRDC's argument apparently is that § 110(a) (2) (H) (ii) can apply only to plans which have been, in their words, "properly" or "fully legally" approved, and that EPA's May, 1972, approval was rendered "improper" as a result of the Court decision. EPA does not agree. Section 110(a) (2) (H) (ii) requires revisions whenever EPA finds "the plan is substantially inadequate;" there is no requirement that the original plan approval must have been "proper" or "fully legal" in order for a new change to be considered a "revision."

5. *Submission date and maintenance period.* NRDC also challenges the legality of EPA's policies of calling for maintenance revisions whenever needed on a case-by-case basis and of allowing the time period for which maintenance is insured to vary from area to area. Several other commenters have also urged

EPA to specify a nationally applicable deadline for submission of the AQMA plans. NRDC argues that the Act demands that all maintenance revisions must be submitted by a nationally uniform deadline (although NRDC fails to cite such a date from the Act), and that the Act does not allow a variation from area to area in the length of time a plan must insure maintenance (although NRDC fails to cite a prescribed length of time for any area in the Act).

In the Administrator's judgment, EPA's maintenance program is based upon a correct interpretation of the Act. If revisions had to be submitted by some nationally uniform deadline, the language in § 110(c) (1) (C) requiring submission of plan revisions by States "within 60 days after notification by the Administrator or such longer period as he may prescribe" would be rendered meaningless. Such a national deadline approach is also undesirable as a policy matter in light of (i) the uncertainty involved in predicting certain types of air quality violations far into the future; (ii) the need for many States and local governments to allocate their air pollution control resources towards the most pressing problems at the present time; (iii) the Act's basic policy of allowing State and local flexibility in devising control strategies so long as the ambient standards are being maintained.

In brief, EPA feels it would be highly inappropriate both as a matter of law and policy, to interpret the Act as requiring maintenance revision, for example, from both State A and State B on the same day, when maintenance problems in State A are currently pressing, but when maintenance problems are not projected in State B for another 8 or 9 years. (See also 40 FR 25814, June 18, 1975.) For many of the foregoing reasons, EPA also believes it may allow plans to insure maintenance of the standards for different periods of time. (It must be remembered that the Act is totally silent on how long a plan must provide for air quality maintenance.) Both date of submission and duration of insured maintenance are ultimately constrained not by arbitrary dates but by a determination that no earlier date of submission and no longer duration are needed to reasonably ensure continued maintenance.

6. *Regional Administrator authority.* The regulations promulgated below provide that the EPA Administrator has certain responsibilities regarding the establishment of the date for submission of AQMA plans, the period over which the plan must provide for the maintenance of the standards, and the modification of certain of the requirements. As the October 20, 1975, preamble stated, however, the Administrator will delegate this responsibility to his Regional Administrators. NRDC argues that EPA's Regional Administrators cannot legally be delegated the authority to determine when maintenance revisions should be submitted or to decide the period for which they should ensure maintenance. On the contrary, § 301(a) allows the Administrator to delegate any of his duties

under the Act, "except the making of regulations." Neither calling for plan revisions under § 110(a) (2) (H) (ii) nor determining the period for which they must specify maintenance constitutes the "making of regulations" under the Clean Air Act. No implementation plan regulations will be "made" until such time as a revision is approved under § 110(a) or promulgated under § 110(c). At that time, obviously, judgments made by Regional Administrators as to plan duration will be subjected to review and possible modification by the Administrator. The Administrator has no intention of delegating his duty to perform rulemaking actions so long as § 301(a) remains unchanged.

Moreover, contrary to NRDC's assertions, EPA will not delegate to the Regional Administrators "authority to modify the basic air quality implementation planning obligations" under the Act. EPA has no intention of administratively modifying the requirement of § 110 that each plan be adequate to insure attainment and maintenance of the ambient standards. It is EPA's interpretation of the Act that the Regional Administrators may properly be delegated the authority to arrange for the development of plans which conform to § 110's requirements in a manner which takes into consideration each State's own air quality problems, program priorities, and resource limitations.

7. *Planning on an AQMA basis.* Several commenters argued that developing implementation plans on the basis of AQMAs rather than AQCRs is illegal as well as administratively illogical. These commenters base their argument on the proposition that the Clean Air Act provides for planning on the basis of AQCRs not AQMAs, and problems such as attainment and maintenance of the photochemical oxidant standard cannot be handled on an AQMA basis because of long range transport of the pollutants involved. EPA's response is that planning on the basis of AQMAs enables States and EPA to focus attention and resources on areas that have the most severe problems. Although there is no mention in the Act of areas other than AQCRs, section 301 of the Act gives EPA broad authority to promulgate such additional regulations as may be necessary. Certainly a focus on AQMAs for purposes of discovering which AQCRs (or portions thereof) are in need of plan revisions is consistent with the Act. See 40 FR 18727, April 29, 1975, for a further discussion of this point. Regarding oxidants, EPA is developing additional guidelines on photochemical oxidants and will distribute them when completed.

GENERAL COMMENTS

1. *Future AQMAs.* NRDC and others urged that the regulations of subpart D should cover maintenance plan revisions in all areas, not just AQMAs. EPA feels that priority attention should be given to those identified areas (AQMAs) that have the most immediate problems. EPA also recognizes however, that some areas that are not AQMAs may need to per-

form the same detailed analysis in the future as do the current AQMA. As noted in the October 20, 1975, preamble to the proposed regulations, however, the Administrator does not intend to identify new AQMA in part 52. Therefore the regulations allow Regional Administrators to require that the development of future implementation plan revisions for attainment and maintenance in any specified area be in accordance with subpart D without incorporating the areas by official designation as AQMA into the Code of Federal Regulations.

2. Promulgation date. Several commenters had suggestions concerning the date that EPA should promulgate these regulations. One organization suggested that EPA defer promulgation until after Congress acts on amendments to the Clean Air Act. As another organization indicated, however, some States are well on their way to developing their AQMA analyses and plans, and some States have actually completed plans. These States need to know what EPA will accept in the AQMA plan. Moreover, in view of the delays encountered in the Act amendment process, EPA feels it would be unwise to stop efforts to comply with the current law.

3. Resource capabilities. Several commenters have argued that States do not have the resources necessary to perform the level of analysis and develop a detailed plan as required under the regulations. EPA is aware of a potential lack of adequate resources in some situations and has allowed for differing degrees of analysis in the regulations and the use of less sophisticated techniques with the approval of the EPA Regional Administrator. Also, the regulations permit States to assign the responsibility for developing the AQMA plan to agencies other than air pollution control agencies. Furthermore, the time frame for plan development is also flexible to allow States to optimize the use of their resources.

In discussions with EPA officials, several representatives of State and local government voiced concern that the semi-annual reporting requirements proposed for § 51.7 might be burdensome. EPA believes it is important that States follow a schedule of action where the plan indicates that some forthcoming work will be done such as obtaining additional resources, performing studies, or adopting new laws and regulations. The Regional Administrators have the option of whether to require States to report on progress for scheduled items and would be able to take account of resource constraints in exercising this option.

One State agency commented that the requirements for reassessment of all areas of the State every five years to determine the need for plan revisions was beyond the fiscal capabilities of the State. EPA believes such a requirement is necessary to account for any growth in emissions that may have occurred since the last analysis was prepared. EPA encourages States to budget their resources to accommodate this requirement.

4. Training. One commenter suggested that EPA establish training programs to educate people in air quality planning. EPA, under an agreement with Argonne National Laboratory, sponsored a series of two-day Air Quality Analysis Workshops in eight of the ten EPA Regional Offices. Approximately 450 individuals from State, local, and federal agencies attended these workshops. These individuals included not only air pollution control personnel but also transportation and land use planners. The workshops provided practical training in the application of the Guidelines for Air Quality Maintenance Planning and Analysis. Argonne developed an Air Quality Analysis Workshop Manual (EPA-450/3-75-080-a, November 1975) for participants to use during the workshop and to consult afterwards. Copies are available free of charge to Federal employees, current contractors and grantees, and nonprofit organizations, as supplies permit, from the Air Pollution Technical Information Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Other interested persons may obtain copies at a nominal cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151. This guideline document is also available for public inspection at each of the EPA Regional Offices and at the Public Information Reference Unit, EPA, 401 M Street, S.W., Washington, D.C. 20460. Also, EPA's Air Pollution Training Institute offers courses on many aspects of air pollution control including air quality planning. Persons who want more information about the Institute can contact Francis King, Director, Air Pollution Training Institute (MD-17), U.S. EPA, Research Triangle Park, NC 27711.

5. Data availability. A number of comments recommended that States make available to the public the data collected for the initial AQMA analyses as well as for the reassessments required every five years. The Administrator agrees that data availability is a significant aid to public participation and is promulgating regulations to insure data availability in §§ 51.12 and 51.62. The Administrator, through his Regional Offices, will also make the State AQMA analysis data submitted to EPA publicly available and will announce its availability.

COMMENTS ON SPECIFIC PROVISIONS

1. Public hearings (§ 51.4 of proposal). A number of comments evidence a misunderstanding of requirements for public hearings relative to AQMA analysis and plan development. The proposed regulations required public hearings only prior to submission of the AQMA plan. This is consistent with § 110 of the Act. The regulations promulgated today include this same requirement. The initial AQMA analysis submitted to EPA will not at the time of submittal actually be a part of an implementation plan revision, and therefore no public hearing is required prior to submission of the analysis. The Administrator will use the analysis as a basis for determining which areas

need AQMA plans. The analysis performed under §§ 51.41 to 51.51 becomes a part of the implementation plan submittal and is subject to federally required public hearing when it is submitted as a part of the AQMA plan under §§ 51.53 or 51.61(c) as promulgated herein. EPA recognizes the need for public participation during all phases of plan development, however, and urges States to provide for participation beyond that which EPA requires as a minimum. As noted earlier the Administrator will make the data and analysis available to the public, and the States are required to do likewise.

Several commenters suggested that EPA require more public participation in the AQMA planning process such as the use of a citizen's advisory committee rather than merely the use of the public hearing. Again, EPA urges States to provide ample opportunity for public participation in the ongoing development of State implementation plans beyond the public hearing process.

2. Periodic reassessment (§ 51.12(e) (3) of proposal). One commenter suggested that the regulations require review of plans every three years to determine whether plans are overrestrictive or underrestrictive. While States are certainly free to undertake such a review, EPA has no legal authority to require plan revisions when a plan may be more stringent than necessary to meet the ambient air standards.

Under the Energy Supply and Environmental Coordination Act (ESECA) of 1974, EPA has reviewed SIPs to determine where SIP regulations would result in air quality concentrations substantially lower than allowed by the NAAQSs. In general, EPA's review found little indication that particulate emission limiting regulations are unnecessarily restrictive. Relaxing particulate regulations in most areas of the country would only tend to aggravate an existing problem. After considering the fact that a number of States had already acted to relax certain regulations, only four States were identified as candidates for relaxing certain overly restrictive SO₂ regulations. (Note, however, that State revisions could not be compelled even as a result of this ESECA review.)

3. Analysis submission date (§ 51.12(g) (1) of proposal). EPA received several conflicting comments concerning the date for submission of the AQMA analysis. Several organizations felt that the date should be extended, while several felt that the Regional Administrator should not be allowed to modify the date. As mentioned below in the discussion of the schedule of actions, the Regional Administrators will specify by July 1, 1976, when AQMA plans for maintenance are due. He will have to identify by that date which areas need maintenance (and/or attainment) plans and establish a submission date for these. Therefore, the submission date should be prior to July 1. Because these regulations are being promulgated after April 1, 1976, however, EPA was not able to set the date of April 1, 1976, as the date for submission of the AQMA analysis as proposed. Therefore, the regulations require States to submit AQMA

analyses on a schedule established by the appropriate Regional Administrator.

4. *Information on growth in emissions* (§ 51.12(i) of proposal). EPA received nine comments concerning the proposed system for gathering information on growth in emissions throughout States. While some felt the system was necessary, others claimed that the proposed system would place a burden on States. EPA feels that some kind of early warning system is needed to alert States when growth in new emissions threatens the NAAQSs so that preventative action can be taken. If one waits for a standard to be exceeded, one is forced to take remedial actions that may disrupt existing activities. This, of course, is precisely what plans for maintenance are intended to prevent. Waiting for standards to be exceeded before taking action would generally prove both more detrimental to public health and more costly. Therefore, the regulations require the establishment of such an early warning system and its submission to EPA as a portion of the implementation plan within a year. One organization indicated that the information that States would collect under this system may already be available in current reports and suggested that a retrieval mechanism could be designed to alleviate the burden on the State. EPA, of course, encourages the use of data already available and does not intend to require creation of new data if existing data will suffice. EPA is still preparing guidance on alternatives for establishing an emission growth information system.

5. *Analysis period* (§ 51.41(a) of proposal). The proposed regulations would have required that the AQMA analysis period be at least 10 years and extend as far into the future as does any other federally sponsored plan having an air quality impact. These included wastewater treatment plans, HUD Section 701 plans and DOT 3-C transportation plans. In response to written and internal agency comments for a simpler way of defining the analysis period, the promulgated regulations require State analyses to project air quality for a 20 year period. Regional Administrators, however, have the authority for good cause to shorten the period covered by the analysis to no less than 10 years. By using this authority, the Regional Administrators can require that the AQMA analysis and planning period be compatible with other federally-sponsored plans.

Several commenters argued that requiring periods for analysis longer than 10 years was unrealistic because of the unreliability of the projections. The analysis beyond 10 years is largely designed to foster awareness of existing State or local land use, transportation, and wastewater treatment plans that extend beyond 10 years, so that the State can consider the air quality implications of these other plans.

6. *Data bases* (§ 51.41 (c)-(f) of proposal). The regulations as promulgated do not include some of the sub-sections relating to air quality data bases as proposed in § 51.41 (c) and (d). These

were deleted as being superfluous since the requirements or options remain applicable even without their specific inclusion in the regulations promulgated. They are the only portions of the proposed regulations which are not specifically included, in some form, in today's promulgation. The requirements of proposed § 51.41(c) relating to the format for submitting baseline air quality data as presently found in § 51.7 make the need for specific references to SAROAD and NEDS formats in AQMA-related regulations unnecessary. The option under proposed § 51.41(d) to utilize the most meaningful NO₂ data remains as discussed in the October 20 preamble.

One commenter argued that the regulation should permit States to average air quality data from a number of sites and use the average as the basis for control. Such a provision would clearly be illegal. The Clean Air Act requires the NAAQSs to be met in all locations in the ambient air, i.e., that portion of the atmosphere external to buildings, to which the general public has access (see 40 CFR 50.1(e)). An average of all air quality concentrations measured in an area could be based not only on concentrations that are below the NAAQSs, but also on concentrations that may exceed those standards. Basing a control strategy on such an average concentration would not be sufficient to ensure achieving the NAAQSs in those areas that exceed those standards. Such a control strategy would not satisfy the requirements of the Clean Air Act.

7. *Accuracy factors* (§ 51.41(g) of proposal). Several commenters suggested that the regulations should require, rather than merely allow, the State to account for factors that affect the accuracy of the AQMA analysis in determining whether a plan revision is needed. To require States to undertake such a sensitivity analysis for every AQMA analysis, however, may be unwarranted in light of the additional workload it would impose on the States.

In the interest of a shorter version of the regulations, the specification of the 13 factors that affect accuracy identified in the proposed § 51.41(g) has not been incorporated in the regulations below. Section 51.50 below, however, retains the provision for allowing States to consider such factors.

8. *Analysis techniques* (§§ 51.42-51.44 of proposal). Several commenters contended that because of the imprecision in the techniques for projecting emissions, EPA should not undertake a control program based on such techniques. EPA rejects this contention. Long-range planning is done for a number of other purposes, such as water supply, waste water treatment, and transportation, generally without inclusion of air quality considerations. Projection techniques for such planning also are imprecise and uncertain. Air quality maintenance planning merely adds another dimension to these other planning processes and does not involve projection techniques that are substantially less certain. Even given the uncertainties of longer range

forecasts, AQMA plan preparation will help State and local government to identify alternative actions and choose alternatives that will minimize future adverse air quality impacts of such projects. In addition, it is expected that plans will be evaluated and, if needed, be adjusted at intervals not less than once every five years. Continuous updating based on observed air quality, past and projected growth of emissions sources, and other factors can minimize any adverse impact of original imprecise estimates.

Furthermore, the regulations allow the Regional Administrators to exercise flexibility in establishing the period over which the plan must provide for maintenance; if the projections are not very accurate for a 10 year period, for example, the Regional Administrator may choose to require that the plan demonstrate maintenance for a lesser period of time.

Moreover, courts have ruled that the Act obligates EPA to undertake programs to protect the public health even if the current state of the art in prediction methods is not precise. See *State of Texas v. EPA* 499 F. 2d 289, 319 (5th Cir. 1974); and *Amoco Oil Co. v. EPA* 501 F. 2d 722, 742 (D.C. Cir. 1974); see also 40 FR 49053, October 20, 1975.

A number of comments requested additional guidance on technical aspects of the regulations. While the Regional Offices should be approached for technical guidance, the Administrator wishes to address certain issues of general interest.

The City of Evansville suggested that the regulations specify which version of the Air Quality Display Model (AQDM) and the Briggs plume rise equation should be used in estimating air quality concentrations. The version of AQDM that should be used is available as a deck of computer cards from the Air Pollution Technical Information Center (APTIC), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. The user's manual, Air Quality Display Model (NTIS No. PB 189194), dated November, 1969, can be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151. The user's manual description of the preferred AQDM version is current with the exception that the Briggs plume rise equations are now used to calculate the effective stack height for point sources. The APTIC card deck contains the version of these equations that should be used.

Regarding this issue, another commenter argued that the Briggs equation would be inappropriate for sources without large stacks, such as gas turbines. Where the State questions the method that EPA suggests for performing the AQMA analysis, the State can request a modification to the method under § 51.63 of the regulations.

An air quality model that is equivalent to AQDM is the Climatological Dispersion Model (CDM) available on EPA's UNAMAP (User's Network for Applied

Modeling of Air Pollution). An EPA contractor has modified CDM to provide for generating a source contribution file for point sources. CDM has several advantages over AQDM: it can accept more sources than AQDM, and it employs a more accurate technique for calculating the downwind concentrations from area sources than does AQDM.

One commenter, a State department of transportation, indicated that carbon monoxide emissions should not be projected at the county level, but that the local nature of CO emissions should be taken into account. EPA acknowledges this; EPA's Guidelines for Air Quality Maintenance Planning and Analysis, Volume 13: Allocating Projected Emissions to Sub-County Areas, contains techniques for projecting and allocating transportation emissions on a traffic network basis. States that have an adequate description of their transportation networks can use this methodology for projecting CO emissions.

This same commenter urged against the use of isopleths for displaying carbon monoxide concentrations because of the local nature of carbon monoxide emissions. EPA recognizes this—the proposed regulation indicated that the use of isopleth maps was one alternative for displaying the results of the air quality dispersion model, but not the only alternative. One method for projecting CO concentrations which bears consideration is that used by the Metropolitan Washington Council of Governments in their evaluation of the air quality impact of future land use alternatives. Their method estimates "background" carbon monoxide concentrations through the use of a macroscale model—the Hanna-Gifford model—and superposition of localized concentrations calculated by microscale models.

One commenter noted that EPA's guidance regarding the projection of photochemical oxidant concentrations is inadequate. EPA recognizes that oxidants and their precursors can be transported over great distances, and nitrogen oxides can scavenge oxidants and precursors. The method suggested by EPA Guidelines, Volume 12: Applying Atmospheric Simulation Models to Air Quality Maintenance Areas, for calculation of oxidant concentrations in most areas is the proportional model presented in Appendix J of 40 CFR 51. This model does not account for transport and scavenging, however. EPA is developing additional guidance on these issues and is investigating the development of models that would account for transport and scavenging. Until such additional guidance is developed, existing procedures will be used.

9. *Control strategies* (§ 51.46 of proposal). NRDC commented that the regulations should require that a control strategy for one pollutant not jeopardize the standard for another pollutant. The Administrator agrees—§ 51.10(d) already provides for such a requirement. The Administrator, in response to internal agency comments, has added a requirement in § 51.54 that an AQMA plan

describe the relationship between the control strategy of the air quality maintenance plan and the State procedures and requirements for the review of new and modified sources. This encourages States to critically assess the maintenance role and capabilities of their new source review regulations. Also, the reader is reminded that the requirements of the other subparts of this part apply to AQMA plans. Thus, for instance the compliance schedule requirements of § 51.15, though not noted in § 51.54, must be met as for any plan revision. Subpart D generally supplements subparts A and B; however, to the extent that Subpart D conflicts with the requirements of subparts A or B, subpart D shall govern.

Written comments were received seeking clarification of the relationships between time periods for analysis and time periods for maintenance strategies. There are three time periods that take effect under subpart D. First, the Administrator, through his Regional Administrators, establishes time periods to be covered by analysis under § 51.42. The regulations require the analysis normally extend for 20 years but may be as little as 10. Then, if the analysis shows it to be necessary, a plan revision is called for. Second, the revised plan, under § 51.53 must demonstrate that it can maintain standards for at least a time period which the Regional Administrator will specify under § 51.52. The Administrator feels that in no case should this be less than 3 years and in many cases should probably be for 10 to 20 years. A third time period takes effect whenever the analysis period is longer than the period over which maintenance is demonstrated. Section 51.56 requires a discussion of any potential future air quality problems that are projected in the analysis and a discussion of possible future control strategies that could be applied during the period between the latest date for which maintenance is demonstrated and the end of the longer analysis period.

The time periods will be selected by the Administrator, through his Regional Administrators, considering such factors as State resources, other planning programs that may significantly affect air quality, the reliability of projections, and the extent of present and potential air quality problems.

Other comments questioned the requirements for legal authority relative to maintenance. Legal authority to implement control strategies is required for each aspect of the control strategy that is enforceable during the period of demonstrated maintenance. The requirements are found in §§ 51.54(b) and 51.55. Legal authority is not immediately required for those strategies discussed as possible future strategies under § 51.56. Section 51.57 requires that where new strategies become necessary to ensure maintenance, then the necessary rules and regulations must be adopted allowing sufficient time before compliance is required to ensure maintenance. In areas that have attained the standards the Administrator generally will require enforceable control strategies to be sub-

mitted as implementation plan revisions at least 3 to 5 years before an area is projected to be in violation of a national standard.

EPA's reason for keeping the requirement for a plan discussion beyond the actual period over which the plan will maintain the standards is to foster awareness of existing State and local land use and transportation plans that extend beyond 10 years, so that a State can consider the air quality implications of these other plans.

One commenter complained that the provision of the proposed § 51.46(a)(5), which would allow the State to estimate the aggregate effect of certain control measures, is unclear. EPA's intent with this provision (which now appears as § 51.53(c)) was to provide for an estimate of the degree of control that would result from measures whose result was difficult to determine accurately. As an example, consider a control strategy that consisted in part of the following measures for the reduction of motor vehicle emissions for an area: a voluntary car-pool matching system, the establishment of bicycle lanes and racks, the establishment of exclusive bus lanes in parts of the area, and incentives by employees to foster reduction of the use of automobiles by employees. An accurate estimation of the effect on the reduction in emissions from each of the measures is impossible. Assigning a fraction of a percent reduction in emissions due to each of the four measures gives the appearance of precision that is not warranted. The regulation would permit the State to estimate the aggregate emission reduction from the four measures rather than require the State to estimate a separate reduction from each of the four.

10. *Intergovernmental cooperation and coordination* (§ 51.50 of proposal). In response to comments from representatives of State and local governments as well as internal EPA comments and comments from other federal agencies the Administrator is modifying the proposed intergovernmental cooperation requirements. The regulations have been made more specific as to delegation of plan responsibilities, consultation, program coordination and the disposition of comments received during plan development.

First, the Governor is required to designate, within 90 days after the Administrator has notified a State of the need for an AQMA plan, the agency responsible for plan development. Before making such a designation the Governor is required to consult with appropriate elected officials of affected general purpose local governments and regional planning agencies. Also, such officials may petition to obtain responsibilities for plan development. Second, the promulgated regulations more specifically include consultation with local elected officials as well as State agencies for planning, water quality management and transportation in the development of AQMA plans. Third, the Administrator is specifically requiring the establishment of procedures to ensure coordination among programs that substantially affect

or are affected by air quality management. Fourth, the plan will include a discussion of significant comments received during the plan preparation.

In an effort to shorten the regulations, paragraphs (f), (g), and (h) (2) in proposed § 51.50 and Appendix U have been omitted. The requirements of paragraphs (f) and (h) (2) still exist in subpart B of this part and apply to AQMA plans without their inclusion in subpart D. Paragraph (g) related to water quality management and was conceived before the Administrator gave explicit guidance to the Regional Administrators for the coordination of air and water programs in a September 22, 1975, memorandum from the Deputy Administrator. The specific regulation is not necessary and may have been interpreted to give undue emphasis to coordination with water quality management programs at the expense of other State programs substantially affecting air quality. Appendix U is omitted because its existence in the October 20 proposal remains as background information. Generally, EPA encourages coordination with agencies or organizations concerned with economic development, energy consumption or development, recreational land use, and intergovernmental relations, in addition to those mentioned in the regulations.

11. *Alternative procedures* (§ 51.51 of proposal). NRDC commented that the Regional Administrators should be allowed to modify only technical procedures involved in analysis or plan development. EPA agrees with this contention. EPA's intent in § 51.51 of the proposal was to require the AQMA plan to contain a projection of emissions, an allocation of these emissions to sub-county areas (if a dispersion model is used), and an estimation of air quality concentrations that resulted from the projected emissions. While the requirement to accomplish these tasks could not be modified, the regulations requiring the use of certain techniques in performing these tasks could be modified by the Regional Administrator. The promulgated regulations clarify the intended Regional Administrator authority particularly in §§ 51.44, 51.45 and 51.46. Also, as States are now developing AQMA plans, some of the coordination procedures of § 51.58 may not have been specifically undertaken during plan preparation. Therefore, the Administrator is allowing the Regional Administrators to accept plans that do not meet certain of the § 51.58 requirements. The public will be informed of any significant modifications to analysis or plan development procedures through notice in the FEDERAL REGISTER. Also, the regulations, in § 51.4, require that no hearings on AQMA plans be held until public notice is given as to any modification to the analysis or plan development procedures.

In response to another comment, the regulations require the Administrator to respond to requests for modification within 45 days of receipt of the request, or the request will be deemed automatically approved.

TIMETABLE OF ACTIONS

To clarify EPA's timetable relating to attainment and maintenance, the following discussion presents a synopsis of the actions the Administrator intends to take by July 1, 1976.

By July 1, 1976, the Administrator will have reviewed all implementation plans to determine their adequacy to attain and maintain standards for all areas of the nation, whether identified as AQMA or not. By that date the Administrator will call for plan revisions whenever an implementation plan is substantially inadequate to attain or maintain NAAQSs.

Each call for a plan revision will address the following essential items:

1. The plan must be made adequate for attainment and maintenance of both primary and secondary standards.
2. If needed, all achievable emission limitations must be submitted as plan revisions no later than July 1, 1977.
3. All other measures needed to attain and maintain must be submitted no later than July 1, 1978.
4. The plan revisions must specify new primary standards attainment dates which are expeditious as practicable. Although this term carries a presumption of no more than three years after the date of approval of the plan revision, in exceptional cases more than three years may be necessary.

5. The plan revisions must specify new secondary standards attainment dates which represent a "reasonable time." This term also carries a presumption of no more than three years after the date of approval of the plan revision, although additional flexibility is inherent in attainment of secondary standards (see 40 CFR 51.13(b)).

6. All calls for revision must require that the plan contain adequate measures for maintenance. Such revisions will undoubtedly include some measures that are valuable for maintenance of the ambient standards as part of a strategy to attain the standards. EPA will consider the following in calling for plan revisions:

- a. New source review procedures of 40 CFR 51.18 and the continued application of measures necessary to attain the standards may be adequate to maintain the standards in many areas.
- b. In those exceptional areas with attainment dates in the distant future (e.g., 8-10 years or more) it may be impractical to require a formal demonstration of maintenance beyond the distant attainment date. In such a case, the plan revision must discuss the types of additional measures that may be needed in the distant future for maintenance.
- c. 40 CFR 51 as amended below allows flexibility in determining what constitutes an adequate demonstration of maintenance.

This timetable of course does not foreclose EPA from calling for plan revisions at any time in the future where information available indicates a need for such a revision.

DETAILED COMMENTS

The introduction above discussed only the most significant comments received. EPA's response to all comments would be too detailed for publication here, but EPA has provided a copy of this response at the Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460, and at the libraries of each of the ten EPA regional offices, which are listed below:

Region	States	Address
I.....	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	2113 John F. Kennedy Federal Bldg., Boston, Mass. 02203.
II.....	New Jersey, New York, Puerto Rico, Virgin Islands.	26 Federal Plaza, New York, N.Y. 10007.
III.....	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.	Curtis Bldg., 6th and Walnut Sts., Philadelphia, Pa. 19106.
IV.....	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	1421 Peachtree St. NE., Atlanta, Ga. 30309.
V.....	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	Federal Bldg., 230 South Dearborn, Chicago, Ill. 60604.
VI.....	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	1600 Patterson St., Suite 1100, Dallas, Tex. 75201.
VII.....	Iowa, Kansas, Missouri, Nebraska.	1735 Baltimore Ave., Kansas City, Mo. 64108.
VIII.....	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	1860 Lincoln St., Suite 900, Denver, Colo. 80203.
IX.....	American Samoa, Arizona, California, Guam, Hawaii, Nevada.	100 California St., San Francisco, Calif. 94111.
X.....	Alaska, Idaho, Oregon, Washington.	1200 6th Ave., Seattle, Wash. 98101.

AUTHORITY: Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 18570-5, 1857g(a)).

Dated: April 23, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 51 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. In § 51.4, paragraph (b) is amended by deleting the word "and" at the end of paragraph (b) (4), by replacing the period at the end of paragraph (b) (5) with "; and" and by adding paragraph (b) (6) as follows:

§ 51.4 Public hearings.

(b) * * *

(6) In the case of hearings on AQMA plans—

(i) Notification to the chief executives of affected local governments, planning agencies, transportation agencies, environmental control agencies, economic development agencies, and any other affected States, and

(ii) Public notice of alternative analysis and plan development procedures approved under § 51.63.

2. Section 51.7 is amended by adding paragraph (e) as follows:

§ 51.7 Reports.

(e) (1) The State shall report on the status and progress of the following actions, if the plan prescribes such action:

- (i) Obtaining additional resources;
- (ii) Adopting new laws or regulations;
- (iii) Conducting studies to provide a basis for further actions directed toward the attainment and maintenance of national standards; or
- (iv) Initiating new programs or expanding existing programs for the attainment and maintenance of national standards.

(2) The State shall make the report required under paragraph (e) (1) of this section with the semi-annual report, commencing with the first semi-annual reporting period following submission of the plan and ending with the completion of the action on which the State must report.

(3) The Administrator shall identify those matters on which the State must report.

3. In § 51.12, paragraph (e) (3) is deleted, paragraphs (g) and (h) are revised, and paragraph (i) is added as follows:

§ 51.12 Control strategy: General.

(g) For each area identified by the Administrator pursuant to paragraph (f) of this section, the State shall submit an air quality analysis and, if called for by the Administrator, a plan revision following the procedures of subpart D.

(h) (1) For all areas of the State, the State implementation plan shall, by (1 year after FR publication date), provide for a procedure for the continual acquisition of information used in projecting emissions.

(2) The plan shall provide that at intervals of no more than 5 years, all areas of the State shall be assessed to determine if any areas are in need of plan revisions.

(3) The State shall retain the data gathered and the written assessment made under paragraphs (h) (1) and (h) (2) of this section, and make them available for public inspection and submit them to the Administrator at his request.

(4) The State shall notify the Administrator if an area is undergoing an amount of development such that it presents the potential for a violation of national standards within a period of 20 years.

(i) Whenever the Administrator calls for a plan revision he may, without publishing the area in part 52 of this chapter, require the revision be developed in accordance with the procedures of subpart D.

4. Subpart B is amended by adding § 51.23 as follows:

§ 51.23 Exceptions.

To the extent that subpart D conflicts with the requirements of subparts A or

B with respect to plan revisions that the Administrator requires to be submitted in accordance with subpart D, subpart D shall govern.

5. Subpart D is added as follows:

Subpart D—Maintenance of National Standards

Sec.	Scope.
51.40	AQMA ANALYSIS
51.41	AQMA analysis: Submittal date.
51.42	AQMA analysis: Analysis period.
51.43	AQMA analysis: Guidelines.
51.44	AQMA analysis: Projection of emissions.
51.45	AQMA analysis: Allocation of emissions.
51.46	AQMA analysis: Projection of air quality concentrations.
51.47	AQMA analysis: Description of data sources.
51.48	AQMA analysis: Data bases.
51.49	AQMA analysis: Techniques description.
51.50	AQMA analysis: Accuracy factors.
51.51	AQMA analysis: Submittal of calculations.
51.52	AQMA plan: General.
51.53	AQMA plan: Demonstration of adequacy.
51.54	AQMA plan: Strategies.
51.55	AQMA plan: Legal authority.
51.56	AQMA plan: Future strategies.
51.57	AQMA plan: Future legal authority.
51.58	AQMA plan: Intergovernmental cooperation.
51.59	AQMA plan: Surveillance.
51.60	AQMA plan: Resources.
51.61	AQMA plan: Submittal format.
51.62	AQMA analysis and plan: Data availability.
51.63	AQMA analysis and plan: Alternative procedures.

§ 51.40 Scope.

(a) *Applicability.* The requirements of this subpart apply to air quality maintenance areas (AQMA) identified under § 51.12(f) and to any areas identified under § 51.12(i).

(b) *AQMA Analysis.* Under this subpart, procedures are given for the analysis of the air quality impact of specified pollutant emissions from existing sources and emissions associated with projected growth and development in areas identified under paragraphs (f) and (i) of § 51.12. This analysis is referred to in this subpart as an AQMA analysis.

(c) *AQMA Plan.* Under this subpart, the Administrator will require a revision to the State implementation plan for areas identified under § 51.12(f) or § 51.12(i) when necessary to prevent a national ambient air quality standard from being exceeded or when necessary to assure the attainment of the standards as well as to assure their maintenance. This revision is referred to in this subpart as an AQMA plan. The AQMA plan shall include, as necessary, control strategy revisions and/or other measures to ensure that emissions associated with projected growth and development will be compatible with maintenance of the national standards. The AQMA plan submittal is subject to the same requirements of this part as pertain to any implementation plan revision.

AQMA ANALYSIS

§ 51.41 AQMA analysis: Submittal date.

For areas identified pursuant to §§ 51.12(f) or (i), a State shall submit an AQMA analysis on a schedule established by the Administrator.

§ 51.42 AQMA analysis: Analysis period.

The time period analyzed shall extend at least 20 years or, if modified under § 51.63, not less than 10 years from the date on which the Administrator identified the area.

§ 51.43 AQMA analysis: Guidelines.

The guidelines referenced in this subpart refer to the Guidelines for Air Quality Maintenance Planning and Analysis, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. When a guideline in this series is referenced in this subpart, only the applicable volume number or the volume number and its particular sub-title are cited. These documents are available for public inspection at EPA's Public Information Reference Unit and at the libraries of each of the ten EPA regional offices. Copies are available as supplies permit from the Air Pollution Technical Information Service, Research Triangle Park, North Carolina 27711. Copies are also available for a nominal fee from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

§ 51.44 AQMA analysis: Projection of emissions.

(a) The State shall project emissions for each identified area and for each pollutant for which the area is identified.

(b) Unless alternative techniques are approved under § 51.63, emissions shall be projected by the techniques specified in the Guidelines, Volume 7, Projecting County Emissions, Second Edition (EPA-450/4-74-008). If this guideline is used, the analysis shall indicate the level of analysis performed.

(c) The requirements of paragraph (b) of this section do not apply if emissions are projected and allocated under § 51.45 for—

(1) Transportation source categories if an order 2 or 3 emission allocation is performed as described in the guideline of § 51.45, or

(2) Industrial source categories including process and fuel combustion sources.

§ 51.45 AQMA analysis: Allocation of emissions.

(a) The State shall allocate projected emissions to sub-county areas for each identified area and for each pollutant for which the area is identified.

(b) Unless alternative techniques are approved under § 51.63, projected emissions shall be allocated to sub-county areas by the techniques specified in the Guidelines, Volume 13, Allocating Projected Emissions to Sub-County Areas, (EPA-450/4-74-014) and its supplement, Accounting for New Source Per-

formance Standards in Projecting and Allocating Emissions—Hypothetical Example, (EPA-450/4-74-014b). If this guideline is used the analysis shall indicate the order of analysis performed.

(c) The requirements of paragraphs (a) and (b) of this section do not apply if air quality concentrations are calculated in § 51.46 by the use of a proportional model.

§ 51.46 AQMA analysis: Projection of air quality concentrations.

(a) The State shall project air quality concentrations for each identified area and for each pollutant for which the area is identified.

(b) Unless alternative techniques are approved under § 51.63, air quality concentrations shall be projected by the techniques specified in the Guidelines, Volume 12, Applying Atmospheric Simulation Models to Air Quality Maintenance Areas, (EPA-450/4-74-013), or equivalent techniques.

(c) Unless modified under § 51.63—

(1) For the projection of air quality concentrations of particulate matter and sulfur dioxide, the Air Quality Display Model (AQDM) or an equivalent model shall be used; and

(2) For the determination of short-term (24- and 3-hour) air quality concentrations for particulate matter and sulfur dioxide, the model used, where possible, shall provide for consideration of the short-term localized air quality impact of individual large point sources.

§ 51.47 AQMA analysis: Description of data sources.

(a) The State shall identify in the analysis the sources of the data used in its projections of growth and development.

(b) The State shall discuss in the analysis its choice of parameters and information used in its projections. Projections may be in terms of such parameters and information as earnings, employment, production, building starts, vehicle miles traveled, and gasoline sales.

§ 51.48 AQMA analysis: Data bases.

(a) All applicable air quality data collected from all existing sites since October 1, 1972, must be considered in the development of the baseline air quality for the analysis.

(b) For interstate areas, the analysis from each constituent State shall, unless modified under § 51.63, be based upon the same regional emission inventory and air quality baseline. If there is disagreement among constituent States as to a data base, the States shall consult with the appropriate EPA Regional Office(s) for the selection of a baseline.

§ 51.49 AQMA analysis: Techniques description.

The State shall include in the analysis a description of the techniques utilized in each allocation or projection required in § 51.44, 51.45 and 51.46, with a detailed description of any alternative methods approved under § 51.63 or any equivalent methods used.

§ 51.50 AQMA analysis: Accuracy factors.

In making the determination of whether a national standard will be violated in an area within the applicable period, the State may account for factors that affect the accuracy of the projected air quality concentrations. Where the State considers such factors in its determination of whether a national standard will be violated, the analysis shall contain a full discussion of the factors.

§ 51.51 AQMA analysis: Submittal of calculations.

The State shall include in the analysis summaries of baseline emissions. Also, for at least one other intermediate year and for the tenth year following the date of the Administrator's identification of the area and for the end of the applicable analysis period, the State shall submit summaries of projections and allocations of emissions required under §§ 51.44 and 51.45 and summaries of air quality concentrations required under § 51.46. These summaries shall be submitted in the following format:

(a) *Baseline and projected emissions.*

(1) Tables 7.1 and 7.2 contained in the Guidelines, Volume 7 for each county in an area if emissions are projected under § 51.44(b), or

(2) If projected emissions are allocated directly under §§ 51.44(c) and 51.45, tables similar to Tables 7.1 and 7.2 of the Guidelines, Volume 7 for the area as a whole.

(b) *Allocated emissions.* Table 4.2, "Master Grid Emissions" contained in the Guidelines, Volume 13 along with a map portraying the master grid.

(c) *Projected air quality concentrations.* A tabulation or isopleth map showing maximum pollutant concentrations and concentration gradients.

AQMA PLAN

§ 51.52 AQMA plan: General.

(a) The Administrator will establish, by notifying the appropriate State,

(1) Which areas require an AQMA plan,

(2) The period over which the AQMA plan must demonstrate that the national standards will be attained and maintained, and

(3) The submission dates for the plans.

(b) The AQMA plan shall provide a detailed description of each revision to the existing State implementation plan that the AQMA plan effects, together with a list of any documents or portions of the State implementation plan that are being revised.

§ 51.53 AQMA plan: Demonstration of adequacy.

(a) An AQMA plan shall demonstrate that the measures, rules and regulations contained in the plan are adequate to provide for the attainment and maintenance of the national standards for the pollutants for which the State implementation plan revision is required for a reasonable period as specified by the Administrator. In providing such a demon-

stration a State shall use analysis techniques required in §§ 51.44, 51.45 and 51.46 and shall include the following in the AQMA plan:

(1) A summary of the computations, assumptions, and judgments used to determine the reduction of emissions or reduction of the growth in emissions that will result from the application of the AQMA plan.

(2) A presentation of emission levels expected to result from application of each measure of the control strategy, using the tables required in § 51.51 (a) and (b).

(3) A presentation of the air quality levels expected to result from application of the overall control strategy presented either in tabular form or as an isopleth map showing expected maximum pollutant concentrations and expected concentration gradients.

(b) The presentations required in paragraphs (a) (2) and (a) (3) of this section shall be provided for the last year of the period for which the AQMA plan is designed to maintain the national standards and for any other preceding years the Administrator specifies.

(c) Where the quantification of the reduction in either emissions or growth in emissions resulting from a single measure cannot be done with a substantial degree of precision, that measure may be combined with other similar measures and an aggregate effect estimated.

§ 51.54 AQMA plan: Strategies.

The State shall include the following in the AQMA plan:

(a) A description of each control measure that is incorporated into the AQMA plan;

(b) The enforceable laws and regulations to implement the measures adopted in the AQMA plan;

(c) A description of administrative procedures to be used in implementing each selected maintenance measure;

(d) A description of enforcement methods including, but not limited to, procedures for monitoring compliance with each of the selected control measures, procedures for handling violations, and a designation of the agency responsible for enforcement or implementation,

(e) A description of the relationship between the control strategy of the AQMA plan and the State's procedure for review of new and modified sources required under § 51.18.

§ 51.55 AQMA plan: Legal authority.

An AQMA plan must demonstrate that the State has the legal authority to enforce all control measures contained in the AQMA plan unless the AQMA plan provides a demonstration that a sub-state entity has the legal authority and responsibility to enforce such measures.

§ 51.56 AQMA plan: Future strategies.

(a) The AQMA plan shall include a discussion of possible strategies for maintaining air quality within the AQMA for the period—

(1) Starting from the end of the period specified under § 51.53 over which

the AQMA plan specifically provides for maintenance of the national standards, and

(2) Ending with the end of the analysis period determined under § 51.42.

(b) The discussion shall include:

(1) Control strategies that could be applied to solve the maintenance problem for the applicable time period; and
(2) Actions that would be needed to adopt the necessary laws and regulations in a timely manner.

§ 51.57 AQMA plan: Future legal authority.

All laws and regulations that are necessary to maintain the national standards must be adopted in sufficient time before compliance is necessary to ensure the maintenance of the national standards. The State shall consult with the Administrator in determining what constitutes sufficient time.

§ 51.58 AQMA plan: Intergovernmental cooperation.

To insure intergovernmental cooperation the preparation and implementation of an AQMA plan shall, as a minimum, include the procedures required in this section.

(a) *Agency designation.* (1) Within 90 days after the Administrator has notified a State of the need for an AQMA plan the Governor shall designate the agency or organization wholly or partially responsible for the development of an AQMA plan. Before making such designations, he shall consult with appropriate elected officials of affected general purpose local governments and affected regional planning agencies.

(2) Elected officials of affected local governments and regional planning agencies may petition the Governor to obtain responsibilities in the development of AQMA plans.

(b) *Consultation with other agencies.* An organization with responsibility for the development of all or a portion of an AQMA plan shall, through procedures for consultation and review, ensure the continuous involvement of—

(1) State agencies responsible for air pollution control, transportation, planning, and water quality management,
(2) Elected officials of affected local governments, and

(3) The agencies responsible for local and areawide planning within the AQMA including, as a minimum:

(i) The local air pollution control agencies;

(ii) The agencies responsible for areawide waste treatment management planning under Section 208 of the Federal Water Pollution Control Act Amendments of 1972;

(iii) The agencies established to administer planning under Section 701 of the Housing and Urban Development Act of 1974;

(iv) The urban transportation planning agencies established under the Federal Aid Highway Act of 1962 (as amended) and the Urban Mass Transportation Act of 1964 (as amended);

(v) The planning agencies designated under the Coastal Zone Management Act of 1972; and

(vi) Cognizant clearinghouses established under Office of Management and Budget Circular A-95, published in the FEDERAL REGISTER of January 13, 1976 (41 FR 2052).

(c) *Coordination with other programs.* An organization with responsibility for the development of all or a portion of an AQMA plan shall coordinate with other planning programs substantially affecting or affected by air quality management through the development of procedures for—

(i) Using common data bases;

(ii) Coordinating or integrating work programs;

(iii) Using similar policy advisory bodies;

(iv) Using compatible public participation and information programs;

(v) Incorporating air quality as a factor in other planning programs; and

(vi) Determining consistency between programs.

(d) *Program relationships.* An AQMA plan shall describe the program relationships between air quality management, and State, regional, and local programs for—

(1) Land use management,

(2) Transportation and parking management,

(3) Water quality management,

(4) Solid waste management, and

(5) Other forms of environmental management substantially affecting or affected by air quality management.

(e) *Adjoining AQMA's.* An AQMA plan shall describe the existing and proposed relationships for coordinating the implementation of the AQMA plan, including further AQMA plan development, with the development and implementation of any plans required by this part in adjoining areas in the State or an adjoining State.

(f) *A-95 clearinghouse review.* Prior to submission to EPA by the State, the plan shall be submitted to the cognizant State and areawide clearinghouses as established under the Office of Management and Budget Circular A-95, published in the FEDERAL REGISTER of January 13, 1976 (41 FR 2052) for review and comment for a period of forty-five days. Comments received from the clearinghouses within that 45-day period shall be considered. Copies of these comments shall be retained by the State for inspection by the Administrator and the public.

(g) *Summary of plan development participation.* The State shall include in the AQMA plan:

(1) A description of the procedures used to ensure public and governmental participation in the development of an AQMA plan,

(2) A description of any State, areawide and local government institutions responsible for AQMA plan development and implementation, with a description of the respective responsibilities and any related agreements or memoranda of understanding between or among them.

(3) A discussion of any significant comments on any elements adopted in the AQMA plan received in the A-95 clearinghouse review or in any public hearings held on the AQMA plan.

(h) *Exceptions.* The requirements of paragraphs (a), (b) and (c) of this section may be modified under the procedures of § 51.63.

§ 51.59 AQMA plan: Surveillance.

An AQMA plan shall include a description and installation schedule of new air quality monitoring sites proposed, if any.

§ 51.60 AQMA plan: Resources.

(a) An AQMA plan shall include a description of the resources available, the additional resources needed to implement the AQMA plan and projections of the extent to which resources will be acquired for each agency charged with responsibility for implementation of any part of the plan. This information shall be provided for the first and last years of the period for which the plan is designed to maintain standards and for any other time the Administrator specifies. This information shall be provided in a form similar to Appendix R of this part. The form may be modified pursuant to § 51.63.

(b) An AQMA plan shall include written assurances from the Governor or local government chief executive or both that they will actively seek additional resources needed to implement the AQMA plan, if any.

§ 51.61 AQMA plan: Submittal format.

An AQMA plan shall be submitted in the following format:

(a) *AQMA identification;*

(b) *AQMA plan summary;*

(c) *AQMA analysis.* Information required under §§ 51.44, 51.45, 51.46, 51.47, 51.49, 51.50, and 51.51 of this part.

(d) *AQMA plan.* Information required under §§ 51.52(b), 51.53, 51.54, 51.55, 51.56, 51.58, 51.59, and 51.60.

(e) *Public hearing certification.* Certification that public hearings were held pursuant to § 51.4 of this part.

§ 51.62 AQMA analysis and plan: Data availability.

(a) The State shall retain all detailed data and calculations used in the preparation of AQMA analyses and plans, make them available for public inspection, and submit them to the Administrator at his request.

(b) The detailed data and calculations used in the preparation of the AQMA analyses and plans shall not be considered a part of the AQMA plan.

§ 51.63 AQMA analysis and plan: Alternative Procedures.

(a) At the request of a State, or under his own initiative, the Administrator, where he determines it appropriate, may approve alternative AQMA analysis and plan development procedures as allowed under §§ 51.42, 51.44, 51.45, 51.46, 51.48 (b), 51.58(h) and 51.60(a). He may con-

sider all relevant factors including but not limited to air quality problems, financial and manpower limitations, administrative feasibility, and existing commitments by the State.

(b) The Administrator shall act upon a request for modification within 45 days after receipt of a properly prepared and filed request. Unless a State is notified of a denial, or the Administrator requests additional information, such a request is

automatically approved on the forty-sixth day.

(c) The Administrator shall publish in the FEDERAL REGISTER a description of each modification made.

(d) A public hearing on an AQMA plan does not fulfill the public hearing requirements of this part if, subsequent to the hearing, any alternative procedures are approved under this section.

6. Appendix R is added as follows:

APPENDIX R.—Agency functions for air quality maintenance area plans for the _____ AQMA in the State of _____ for the year _____

Control measures	Agencies ¹	State air pollution control agencies	Local air pollution control agencies	Implementation plan review agencies (A-95, 3-C)	Planning agencies	Transportation agencies	Other (water control, public works, etc.)
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FUND ESTIMATES BY FUNCTION

Measure a.....
Measure b.....

Measure m.....

Total funds².....

MAN-YEAR ESTIMATES BY FUNCTION

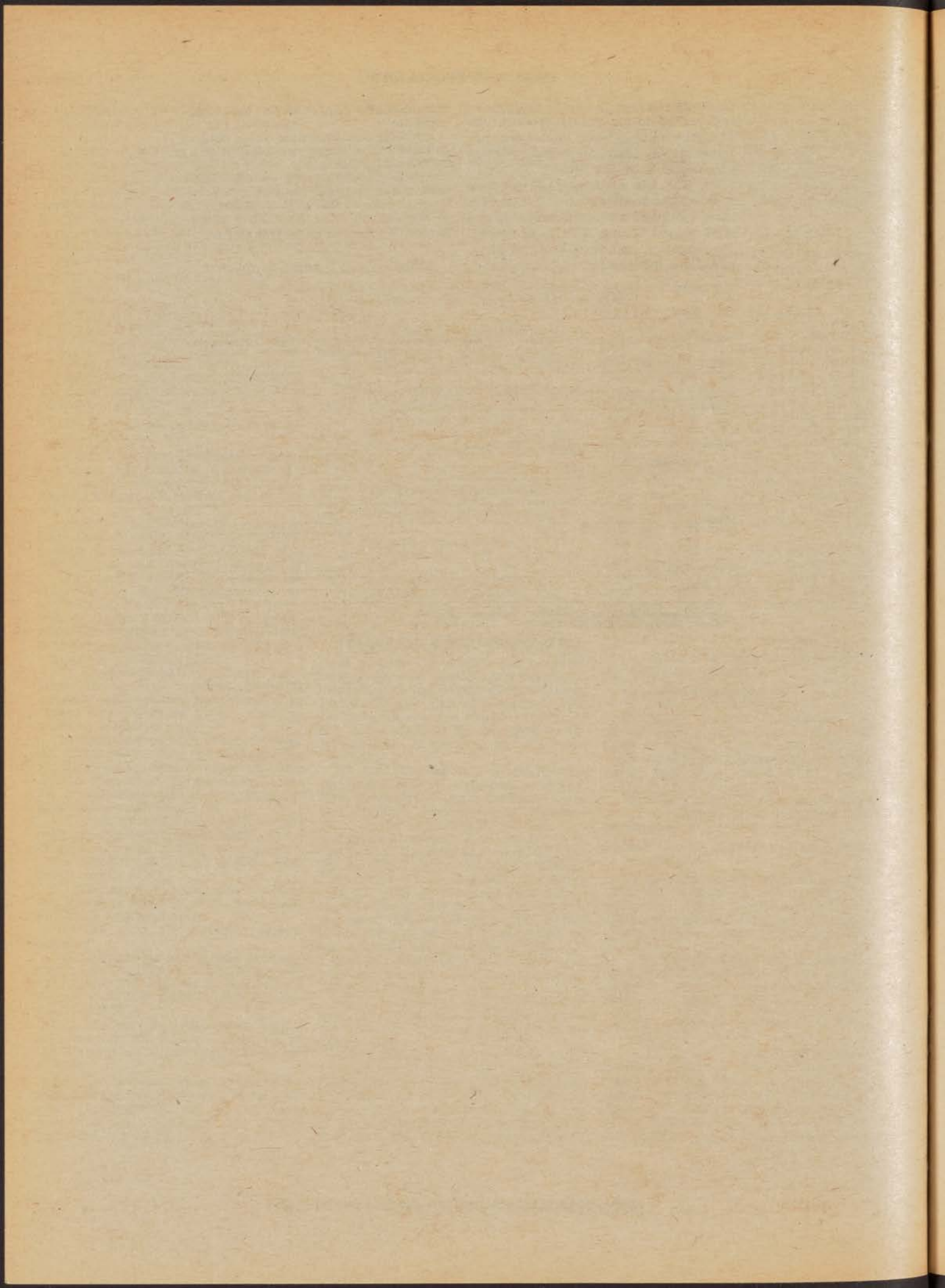
Measure a.....
Measure b.....

Measure m.....

Total.....

¹ Specific agencies should be identified in a narrative attachment.
² Report funds in thousands of dollars.

[FR Doc.76-12690 Filed 4-30-76;8:45 am]



federal register

MONDAY, MAY 3, 1976



PART III:

**DEPARTMENT
OF HEALTH,
EDUCATION, AND
WELFARE**

Office of the Secretary



**Consolidated Procedural Rules for
Civil Rights Enforcement**

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 81]

CONSOLIDATED PROCEDURAL RULES FOR ADMINISTRATION AND ENFORCEMENT OF CERTAIN CIVIL RIGHTS LAWS AND AUTHORITIES

Intent To Issue Notice of Proposed Rulemaking

INTRODUCTION

The Department of Health, Education, and Welfare is faced with the difficult question of designing effective procedures for managing an increasing number of civil rights complaints. This is not only a Departmental issue; it is rather an issue for the entire country. The basic concept of civil rights, equal protection for each citizen under the law, is not at issue, but the question of the best way to administer and make viable that goal is.

At the heart of our difficulty are such problems as these:

How do we afford each individual attention to his or her case and at the same time deal effectively with the astronomical growth in the number of cases which must be considered?

How do we establish priorities, and thereby organize our work, when each individual case potentially has an equal claim on the available resources?

Because these are more than just Health, Education, and Welfare issues, and because we seem to be faced with antithetical imperatives, we have taken extraordinary steps to provide for the broadest public commentary. No new regulations have been proposed in place of these which are now withdrawn. Instead, we are making an open advertisement for ideas.

To give some focus to our concerns and to the issues raised in the comments to the earlier regulations, the Office for Civil Rights has posed a series of detailed questions which follow and may serve as a starting point for public commentary. In addition, we are publishing, outside the *FEDERAL REGISTER*, a summary of these issues, along with an invitation to comment. It is our hope that these unprecedented actions will provide an opportunity for all those interested in these matters to help shape a national response to these very difficult questions.

As Secretary of Health, Education, and Welfare, I most sincerely invite your participation in this matter.

PURPOSE

On June 4, 1975, the Department's Office for Civil Rights published in the *FEDERAL REGISTER* a Notice of Proposed Rulemaking concerning the administration and enforcement of certain civil rights laws and authorities.

The purpose of this notice is to withdraw the Notice of Proposed Rulemaking issued last June 4, and to seek public comment on a number of important questions relating to the Department's enforcement policy.

After the Department has had an opportunity to evaluate the comments on these questions, the Office for Civil Rights intends to issue a new Notice of Proposed Rulemaking concerning consolidated procedural rules.

The Department's objective, in issuing this Notice of Intent, is to encourage citizen participation in the process of developing proposed regulations. The Secretary strongly believes that the views of persons and organizations likely to be affected by the Department's regulations should be brought to bear in the process in a meaningful way, and that one means of accomplishing this goal is to stimulate public discussion of important issues prior to publishing a notice of proposed rulemaking.

SCOPE

The questions raised for public comment in this Notice of Intent concern the procedures the Department should adopt in certain areas to enforce various civil rights laws and authorities. These laws and authorities are as follows:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs on the basis of race, color, or national origin (42 U.S.C. 2000d; as implemented by 45 CFR Part 80).

Title IX of the Education Amendments of 1972 which, with certain exceptions, prohibits sex discrimination in federally assisted education programs (20 U.S.C. 1681, et seq.; as implemented by 45 CFR Part 86).

Sections 799A and 855 of the Public Health Service Act, under which schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health, health-related training centers, and schools of nursing applying for Federal support must provide the Secretary a satisfactory assurance that there is no discrimination on the basis of sex in admission (45 U.S.C. 295h-9 and 2986-2; as implemented by 45 CFR Part 83).

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified handicapped persons on the basis of physical or mental handicap in federally assisted programs (29 U.S.C. 794).

Section 407 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1174).

Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4581).

BACKGROUND

The Notice of Proposed Rulemaking of June 4, 1975, solicited public comment during a period ending July 21, 1975. The initial comment period was extended on October 2, 1975, (40 FR 45442) to give the Department additional time to assess the issues involved, to consult with members of Congress and the public, and to receive further comment. In all, 142 written comments were received.

The major concern of persons submitting comments on the proposed regulation was the Department's position

concerning the treatment to be accorded complaints of discrimination. Almost without exception, persons submitting comments strongly opposed the approach outlined in proposed Section 81.6 under which the Department would investigate complaints on a discretionary basis. Generally, the comments opposed the proposed regulation's departure from the existing provision in 45 CFR Part 80.

The Secretary shares the concerns expressed in the comments, and has announced the Department's policy to ensure that all complaints of discrimination submitted to HEW are resolved in a timely manner. In the Secretary's view, the attention the Department gives to complaints is particularly critical where grievances allege violations of statutorily protected rights and where the program services and employment practices under challenge are supported by Federal financial assistance.

The central objective, therefore, is to develop a complaint resolution process that works effectively. In the first instance, the various procedures the Department ultimately adopts as part of this complaint resolution process must ensure that the rights and interests of both complainants and recipients are protected. And, instead of raising false expectations, the process must build public confidence in the Department's ability and willingness to meet its responsibility toward complainants. For this reason, the Secretary seeks a broad range of ideas and comment from the public, especially from those persons most affected by the Department's complaint-handling process.

In evaluating various procedures that might be adopted to address complaints, the Department must ensure a well balanced compliance program that takes into account all of the Department's civil rights obligations and that most effectively identifies and eliminates unlawful discrimination. Thus, staff resources must be utilized for compliance responsibilities not directly related to the investigation of complaints.

An analysis of the complaint workload indicates that between 1969 and 1974, the number of complaints received by the Office for Civil Rights grew by about 450 percent. Although staff increases in the Office for Civil Rights have been substantially greater than those in the Department as a whole, these increases have not permitted the Office to keep pace with the rising volume of complaints received. Due to the enactment of new civil rights legislation since 1972, and the issuance of regulations implementing this legislation, the Department anticipates a continuing upward trend in the number of complaints of discrimination submitted.

In light of this trend, and the continued need to carry out an effective compliance review program in addition to complaint investigations, the Secretary has supported substantial staff increases for the Office for Civil Rights. In his Fiscal Year 1977 budget request, the President recommended 150 additional positions to assist the Department in carrying out its civil rights functions.

However, even if the additional positions are approved by Congress, current and projected staff resources will still be inadequate simultaneously to eliminate the complaint backlog, to resolve all incoming complaints on a timely basis, and to fulfill other essential enforcement responsibilities. Therefore, to help ensure that complaints are resolved effectively and within a reasonable time, new procedures are necessary that will reduce the direct resource demands on the Office for Civil Rights.

ISSUES

There are two basic issues concerning the Department's enforcement policy which warrant public comment and discussion.

I. The first issue is the development of a workable process for ensuring the resolution of complaints.

The Office for Civil Rights has already adopted a policy whereby complaints are used to help set compliance review priorities and whereby all complaints pending against a recipient are routinely investigated as part of a compliance review of that recipient. In addition, the Office has traditionally carried out complaint investigations independent of compliance reviews.

This section of the Notice raises a series of questions concerning additional approaches and practices that should be publicly explored. Interested persons and organizations are encouraged to fully present their views on these questions. At the same time, the list of questions may not exhaust all the possibilities and implications that exist and should be considered, and therefore the public is invited to present any other matters that should be weighed in developing an effective complaint resolution process.

1. What type of information, in terms of detail and format, should be considered as a "complaint"? Should the Office for Civil Rights expect a complainant to furnish a certain minimum of information or supportive documentation concerning an allegation of discrimination before proceeding to investigate the matter as a complaint? Currently, the Office accepts as a "complaint" any information received, in any manner, that alleges discrimination by a recipient. Would it be appropriate for the Office to develop guidelines for complainants indicating what items of information properly constitute a complaint? If so, what standards should or could be established in such guidelines?

2. Should the Office give priority attention to certain types of complaints? In the past, complaints have often been handled on a first come, first served basis, or in connection with scheduled compliance reviews. One possible alternative would be to expedite those complaints which might result in immediate and irreparable harm. Are there other types of complaints which should be considered on an expedited basis? And, in addition, should criteria be adopted to determine the sequence in which all complaints are addressed? If so, what criteria should be adopted?

3. Would it be advisable for the Office to maintain certain identifiable phases in the complaint resolution process (such as a period for investigation, for presentation of findings, for negotiation and settlement, for the initiation of enforcement action) and attach timetables to each of these stages in moving to resolve each complaint? Would such a system help to resolve all complaints as expeditiously as possible, or would it prove to be impractical or unworkable, given the range of different complaints submitted?

4. The Department's current position is that a complaint is considered to be "resolved" when the Office for Civil Rights reaches a determination that: (a) the allegation of discrimination is valid, and either an appropriate remedy has been offered or secured or enforcement action is initiated, or (b) the allegation of discrimination is invalid. Is this concept fair and equitable to both complainants and recipients?

5. To what extent should the Office involve State agencies in the process of resolving individual complaints? For instance, a possible approach is to require a State agency, which receives Federal assistance for its own use or for distribution, to investigate and make findings concerning some complaints the Department receives. In addition, should the Office explore the feasibility of referring some complaints to other non-Federal agencies such as local and State human rights agencies, for initial investigation or consideration?

6. What kinds of effective controls and procedures might be adopted to ensure that when complaints are referred to another agency for investigation, the resolution process moves along as expeditiously as possible? For example, under what conditions should the Office refer certain complaints to State agencies for investigation? Conceivably, it may be appropriate to set a timetable for any such investigations and to monitor carefully the status of complaints referred. In addition, would it be necessary or desirable to formulate any other standards or to provide technical assistance? What sort of technical assistance should be provided?

7. Under what circumstances, and what procedures, should the Office review the findings made by a State agency or any other non-Federal agency to which complaints have been referred for investigation? What weight should be accorded to such findings? Should the Office fully investigate a complaint whenever the complainant appeals for a Department review because of adverse findings made by a State or other non-Federal agency? What level of priority should the Office give to reviewing such adverse findings?

8. In the past, there have been many cases where complaints making substantially the same allegations of discrimination have been filed with another Federal agency as well as with HEW. What coordination procedures might be developed between HEW and other Federal

agencies with similar jurisdiction to utilize resources effectively and avoid duplication?

9. Under what circumstances should the Office withhold action on a complaint when the issues raised in that complaint are being considered or litigated by another Federal agency, a State agency, or private party?

10. Would it be appropriate to require all recipients to establish and operate institutional grievance procedures to investigate and attempt to resolve complaints of discrimination? Should the Office adopt various means of encouraging complainants to make use of these grievance procedures? One possible means of doing so would be to assure a complainant an expedited review of the complaint whenever a grievance proceeding resulted in adverse findings.

11. The Office has traditionally sought to resolve complaints by a relatively formal process whereby complaints are scheduled for investigation and negotiations ensue with the recipients involved when the complaints are found to be valid. Are there other, less formal methods of conciliation or mediation that could effectively be utilized to try to resolve some complaints prior to, or instead of, initiating a formal process of investigation and negotiation?

II. The second basic issue on which the public is invited to comment is closely related to establishing an effective and workable complaint resolution process.

As indicated earlier in this Notice, the Department's staff resources must also be committed to discharging civil rights enforcement obligations not directly related to the resolution of complaints. And, the Office for Civil Rights must continue to determine periodically its enforcement priorities based on a sound planning system.

Accordingly, this second issue concerns the process whereby priorities are determined, and the extent to which interested persons and organizations should participate in this process.

1. What are the principal factors or criteria the Office for Civil Rights should assess and apply in periodically establishing priorities to guide its non-complaint oriented activities?

2. What basic procedure should the Office follow in establishing priorities, and how often should priorities be determined? Currently, compliance review objectives are set annually through a discussion process involving both regional office and headquarters staff, with the final decisions made by the Director.

3. In what manner or form should the Office's priorities be made public for comment and discussion? To what extent should recipients, civil rights and other public interest groups, as well as individuals, be provided the opportunity to help determine the Office's priorities? By what means could or should the Office facilitate this participation?

Finally, if there are additional issues concerning the Department's enforcement policy that persons or groups would like to comment on, the Department will consider these comments as well.

PROPOSED RULES

INVITATION TO COMMENT

Persons or organizations wishing to submit comments or suggestions on the matters raised in this Notice of Intent may present their views in writing to the Director, Office for Civil Rights, Department of Health, Education, and Welfare, P.O. Box 50180, Washington, D.C. 20004.

Written comments and information may be submitted in any form, such as by means of letters, position papers, or memoranda. There are no special rules concerning format that apply. However, to assure full consideration, all written comments should be submitted on or before July 2, 1976. Comments received in response to this Notice of Intent will be available for public inspection in Room 3231, 330 Independence Avenue, S.W., Washington, D.C. 20201.

To enable the Department to benefit fully from the public's views on the various questions raised in this Notice, the Office for Civil Rights will also seek to hold meetings with interested persons and organizations. Such meetings will focus on a broad discussion of the various ideas, comments, and recommendations presented to the Department for consideration. Persons and organizations desiring to participate in such meetings should so advise the Office of Public Affairs, Office for Civil Rights, Area Code 202 245-6700, as promptly as possible.

Dated: April 22, 1976.

DAVID MATHEWS,
Secretary.

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