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TUESDAY, JUNE 1, 1976



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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. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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

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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)

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

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

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
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

CA&RF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
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
NCDC—New Community Development Corporation

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
FCCPO—Federal Contract Compliance Programs 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
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
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

Executive Order 11916 • May 28, 1976

Amending Executive Order No. 11649,[1] Regulations Governing the Seals of the President and the Vice President of the United States

By virtue of the authority vested in me by section 713(b) of title 18 of the United States Code, subsection (b) of section 1 of Executive Order No. 11649 is amended to read as follows:

"(b) Use in encyclopedias, dictionaries, books, journals, pamphlets, periodicals, or magazines incident to a description or history of seals, coats of arms, heraldry, or the Presidency or Vice Presidency;".

Gerald R. Ford

THE WHITE HOUSE,
May 28, 1976.

[FR Doc.76-16035 Filed 5-28-76;12:10 pm]

[1] 37 FR 3625; 3A CFR, 1972 Comp., p. 150.

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
4	3.20
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
9	6.80
10 Parts:	
0–199	4.60
200–end	4.90
12 Parts:	
1–299	11.00
300–end	7.50
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
150–end	6.80

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

Title	Price
20 Parts:	
1–399	$2.45
21 Parts:	
1–9	2.60
200–299	2.10
600–1299	2.75
1300–end	1.90
26 Parts:	
1 (§§ 1.170–1.300)	3.90
1 (§§ 1.301–1.400)	3.30
1 (§§ 1.501–1.640)	4.05
300–499	3.60
600–end	2.20

1975 CFR volumes previously announced are available from the Superintendent of Documents at the prices listed below:

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

Title	Price
28	$2.70
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
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 9—Animals and Animal Products

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

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

This amendment excludes Middlesex and Worcester Counties in Massachusetts and Cheshire and Rockingham Counties in New Hampshire from the areas quarantined by the regulations in 9 CFR Part 76, as amended, because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in the State of Massachusetts remain under quarantine.

Accordingly, Part 76, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases is hereby amended in the following respects:

1. In § 76.2, paragraph (e) (2) relating to the State of New Hampshire is amended to read:

(2) *New Hampshire.* All of Hillsborough County.

2. In § 76.2, paragraph (e) (3) relating to the State of Massachusetts is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective May 26, 1976.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of May, 1976.

F. W. HANSEN, Jr.,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.76–15770 Filed 5–28–76;8:45 am]

PART 78—BRUCELLOSIS

Brucellosis Areas

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): McDonald and Wright Counties in Missouri; Bee, Calhoun, Callahan, Cameron, Foard, Harris, Hidalgo, Jasper, Orange, Stephens, Tyler, and Uvalde Counties in Texas.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Chambers, Cherokee, Hopkins, Houston, Karnes, Nueces, Red River, Refugio, Upshur, and Winkler Counties in Texas.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Cerro Gordo, Dallas, Linn, Marshall, and Polk Counties in Iowa.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Socarro County in New Mexico; Brookings and Edmunds Counties in South Dakota.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Barbour, Cherokee, Clay, Cleburne, Dale, Etowah, Geneva, Henry, Lee, Russell.

Arkansas. Ashley, Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Conway, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff, Yell.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crawley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Barrow, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Towns, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clearwater, Custer, Elmore, Fremont, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Boone, Bond, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Sac, Scott, Shelby, Story, Tama, Taylor, Union, Van Buren, Wapello, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Grove, Haskell, Hodgeman, Johnson, Lane, Marshall, Pawnee, Phillips, Riley, Scott, Trego, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Adair, Audrain, Carter, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Marion, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Hidalgo, Grant, Harding, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Bute, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Bledsoe, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Hardin, Houston, Jackson, Jefferson, Johnson, Knox, Lake, Lincoln, Meigs, Monroe, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Reeves, Roberts, Sterling, Terrell, Val Verde, Ward.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coama, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Pieddras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Chilton, Choctaw, Clarke, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Chicot, Clark, Cleburne, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White.

Colorado. Kiowa, Pueblo, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwannee, Union, Volusia.

Georgia. Baker, Baldwin, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Clark, Franklin, Gem.

Illinois. Brown, Effingham, Hardin, Pike, Pope, Wayne, Williamson.

Iowa. Allamakee, Appanoose, Benton, Cerro Gordo, Crawford, Dallas, Davis, Decatur, Guthrie, Jackson, Linn, Marshall, Polk, Pottawattamie, Poweshiek, Ringgold, Sioux, Warren, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Logan, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Wabaunsee, Wallace, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshal, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Choctaw, Chickasaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Mercer, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Beadle, Jones, Marshall, Stanley.

Tennessee. Bedford, Benton, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Humphreys, Lauderdale, Lawrence,

Lewis, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glassock, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harrison, Haskell, Hays, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Limestone, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Sherman, Shelby, Smith, Somervell, Starr, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Upshur, Upton, Van Zandt, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.
Wyoming. Lincoln.

Puerto Rico Arecibo, Carolina, Guaynabo, Hatillo, Juncos, Las Piedras, Naguabo.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Missouri. McDonald, Wright.

Puerto Rico. Vieques.

Texas. Bee, Calhoun, Callahan, Cameron, Foard, Goliad, Harris, Hidalgo, Jasper, Jefferson, Liberty, Live Oak, Orange, Stephens, Tyler, Uvalde, Victoria.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date: The foregoing amendments shall become effective June 1, 1976.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of May, 1976.

F. W. HANSEN, Jr.,
Acting Deputy Administrator, Veterinary Services Animal and Plant Health Inspection Service.

[FR Doc.76-15771 Filed 5-28-76;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 700—CONDUCT OF EMPLOYEES

Supplementary Statements of Employment and Financial Interests

The Energy Research and Development Administration (ERDA) is amending Part 700 of its regulations, "Conduct of Employees," to change the date for filing required supplementary confidential statements of employment and financial interests.

ERDA adopted the Conduct of Employees regulation, 10 CFR Part 0, of its predecessor, the Atomic Energy Commission, and redesignated the regulation as 10 CFR Part 700, as set forth in 40 FR 8794, March 3, 1975.

The filing date, previously June 30, is changed to September 30 of each year to adjust the ERDA reporting period to the new Federal fiscal year.

Because these amendments constitute a matter relating to agency management and personnel, it has been determined that the provisions of 5 U.S.C. 553 requiring advance notice of proposed rule making and public procedure thereon do not apply.

In 10 CFR Part 700, § 700.735-28(d)(5) is revised to read as follows:

(5) *Supplementary statements.* Changes in, or additions to, the information contained in a regular Government employee's statement shall be reported by the employee in a supplementary statement as of September 30 each year, filed within 10 days thereof. Changes in, or additions to, the information contained in a special Government employee's statement shall be reported by the special Government employee in a supplementary statement within 10 days following the end of the calendar quarter in which the changes occur. Quarters end March 31, June 30, September 30, and December 31. The forms prescribed in paragraph (d)(1) of this section shall be used for this purpose and plainly marked "Supplementary". The changes and additions shall be identified in terms of the specific part(s) of the statement being modified. All changes or additions occurring during the reporting period are to be reported, not merely employment and financial interests status as of the reporting date. If there are no changes in or additions to a special Government employee's statement, a negative quarterly report is not required. However, for the purpose of annual review, a supplementary statement by regular and special Government employees, negative or otherwise, is required as of September 30 of each year. The employee shall submit his supplementary statement to the official who would be the recipient of an initial statement from the employee, as identified in paragraph (h) of this section. Notwithstanding the filing of the report(s) required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or this Part 700.

Effective date: June 1, 1976.

ROBERT C. SEAMANS, Jr.,
Administrator.

[FR Doc.76-15844 Filed 5-28-76;8:45 am]

Title 24—Housing and Urban Development

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

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Aurora, Colo.

On August 7, 1974, in 39 FR 28424, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Aurora, Colorado. Map No. H 080002 11 indicates that portions of Kingsborough Subdivision, Filing No. 6, Aurora, Colorado, as recorded in Book 29, Page 1, in the office of the Clerk and Recorder of Arapahoe County, Colorado, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Kingsborough Subdivision Filing No. 6, Aurora, Colorado, is not within the Special Flood Hazard Area. Accordingly,

Map No. H 080002 11 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 7, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15794 Filed 5–28–76;8:45 am]

[Docket No. FI–410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 19 indicates that Lot 38, Mount Pleasant Beach, being 7572 Beach Drive, Anne Arundel County, Maryland, as recorded in Liber 2823, Pages 76 and 77 in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is partially within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 19 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 7, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15799 Filed 5–28–76;8:45 am]

[Docket No. FI–321]

PART 1920—PROCEDURE FOR CAMP CORRECTION

Letter of Map Amendment for the Borough of Stafford Springs, Conn.

On August 6, 1974, in 39 FR 28251, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Borough of Stafford Springs, Connecticut. Map No. H 090113 01 indicates that Lots 25 and 26, as shown on a Subdivision Plan of Riverview Acres, Stafford Springs, Connecticut, prepared for Xenophon Zorba on July 24, 1972, as recorded in Map Volume 10, Page 27, in the office of the Town Clerk of Stafford, Connecticut, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 090113 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15795 Filed 5–28–76;8:45 am]

[Docket No. FI–880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Chesapeake, Virginia

On February 13, 1976, in 41 FR 6738, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Chesapeake, Virginia. Map No. H 510034A 08 indicates that Lot 4, Block 69, Norfolk Highlands Subdivision No. 1, Chesapeake, Virginia as recorded in Map Book 10, Pages 63 through 65 in the office of the Clerk of the Circuit Court of Chesapeake, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 510034A 08 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on June 18, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 7, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15805 Filed 5–28–76;8:45 am]

[Docket No. FI–1191]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Columbus, Georgia

On October 30, 1970, in 35 FR 16800, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Columbus, Georgia. Map No. H 135158 12 indicates that Lots 40 through 44, and 48 through 53, Block F, Regency Park, Section Four, Columbus, Georgia, as recorded in Plat Book 52, Folio 82–B, in the office of the Clerk of Courts of Muscogee County, Georgia, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures of Lots 40 through 44, and 49 through 53, Block F, are within Zone C, and are not within the Special Flood Hazard Area. The existing structure on Lot 48, Block F, is in Zone B, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 135158 12 is hereby corrected to reflect that the above structures are not within the Special Flood Hazard Area identified on October 30, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15797 Filed 5–28–76;8:45 am]

[Docket No. FI–277]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Franklin, Wisconsin

On January 9, 1974, in 39 FR 1436, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Franklin, Wisconsin. Map No. H 550273 06 indicates that Lots 5, 10, and 13, Block 2; and Lots 12 and 13, Block 3, Hawthorn Glen Subdivision, Franklin, Wisconsin, as recorded in Plat Volume 102, Pages 37 and 38, in the office of the Register of Deeds of Milwaukee County, Wisconsin, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are

not within the Special Flood Hazard Area. Accordingly, Map No. H 550273 06 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on December 28, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15807 Filed 5–28–76;8:45 am]

[Docket No. FI–880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Missouri

On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A 04 indicates that Lots 1 through 16, Block 1; Lots 1 through 17, Block 2; Lots 1 through 10, 15, 22 through 25 and 30 through 32, Block 3; Lots 1 through 17, Block 4; Lots 1 through 34, Block 5; Lots 1 through 3, 9, 10, and 13 through 15, Block 6; Lots 1, 2, and 5 through 8, Block 7; and Lots 1 through 3, Block 8, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned lots, with the exception of Lot 15, Block 3, are not within the Special Flood Hazard Area. Lot 15, Block 3, would be partially inundated by a flood having a one-percent chance of occurrence in any given year, however, the existing structure is not within the Special Flood Hazard Area. Accordingly, Map No. H 290171A 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15801 Filed 5–28–76;8:45 am]

[Docket No. FI–270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Indianapolis, Indiana

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Indianapolis, Indiana. Map No. H 180159 33 and 34 indicates that the property located at the junction of I–74 and I–465, Indianapolis, Indiana, which is the area indicated by cross-hatching on the plat map recorded as Instrument No. 75–26729 in the office of the Recorder of Marion County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 180159 33 and 34 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15798 Filed 5–28–76;8:45 am]

[Docket No. FI–232]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shrewsbury, Missouri

On April 1, 1974, in 39 FR 11899, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shrewsbury, Missouri. Map No. H 290386 01 indicates that Lot 36 and the West ½ of Lot 35, Block 17, Shrewsbury Park 3rd Subdivision, Shrewsbury, Missouri, as recorded in Record Plat Book 2, Page 93, in the office of the Recorder of Deeds of St. Louis County, Missouri, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 290386 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 29, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15802 Filed 5–28–76;8:45 am]

[Docket No. FI–128]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of St. Louis Park, Minnesota

On May 17, 1973, in 38 FR 12916, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of St. Louis Park, Minnesota. Map No. H 270184 03 indicates that Lots 35 and 36, Block 141, Rearrangement of St. Louis Park, St. Louis Park, Minnesota, as recorded in Volume 1743, Page 525827, in the office of the Registrar of Titles of Hennepin County, Minnesota, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 270184 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 25, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 7, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15800 Filed 5–28–76;8:45 am]

[Docket No. FI–1190]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the County of Pinellas, Fla.

On June 18, 1971, in 36 FR 11729, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Pinellas, Florida. Map No. H 125139A 05 indicates that Bardmoor Golf View Estates Fourth Addition, Pinellas County, Florida, as recorded in Plat Book 75, Page 18, in the office of the Clerk of the Circuit Court of Pinellas County, Florida, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance

Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 125139A 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 18, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15796 Filed 5–28–76;8:45 am]

[Docket No. FI–352]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Canal Winchester, Ohio

On September 12, 1974, in 39 FR 32889, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Canal Winchester, Ohio. Map No. H 390169 02 indicates that Lot 47, Washington Knoll Subdivision, Canal Winchester, Ohio, as recorded in Plat Book 48, Page 11 in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 390169 02 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on January 25, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15804 Filed 5–28–76;8:45 am]

[Docket No. FI–196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 04 indicates that Lot No. 12–L, Block 324, Brookfields, Ridgewood, New Jersey, as recorded in Book 5485, Pages 39 and 40, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340067 04 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 10, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15803 Filed 5–28–76;8:45 am]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Wood County, West Virginia

On January 24, 1975, in 40 FR 3782, the Federal Insurance Administrator published a list of communities with special hazard areas which included Wood County, West Virginia. Map No. H 540213 02 indicates that Lots 204 and 207, Vienna Improvement Company Addition, Wood County, West Virginia, as recorded in Book 627, Page 260, and Book 641, Page 62, respectively, in the office of the Clerk of the Court of Wood County, West Virginia, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 540213 02 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: May 17, 1976.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76–15806 Filed 5–28–76;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Sexually Oriented Advertisements Increased Cost of List of Persons

By Notice of Proposed Rulemaking published in the FEDERAL REGISTER on March 4, 1976 (41 F.R. 9395), the Postal Service proposed amendments to 123.523, 123.524 and 123.541–123.543 of the Postal Service Manual, Chapter I of which is incorporated by reference in the FEDERAL REGISTER. See 39 C.F.R. III. The purpose of these amendments is primarily to change the method of recovering the costs of making available the list of persons who wish not to receive sexually oriented advertisements (hereinafter the SOA list) as provided in 39 U.S.C. 3010–3011.

The statutory scheme defines a category of advertisements as "sexually oriented" and permits any person, for himself and for his minor children, to request inclusion on a list of persons who do not wish to receive through the mail sexually oriented advertisements as so defined. A person who mails such advertisements is prohibited from sending them to a person whose name has been on this SOA list for more than 30 days. Copies of the list are made available to the public upon terms prescribed by the Postal Service for the sole purpose of ensuring that mailing lists used by mailers of sexually oriented advertisements do not include the names of persons on the SOA list. The statutes contemplated that the Postal Service would charge for copies of the SOA list a fee that would cover the costs of compiling it and making it available for this purpose.

As initially adopted in 1971, the regulations implementing 39 U.S.C. 3010–3011 made the SOA list available only by subscription at an annual rate to be determined at the close of the year by dividing actual costs by the total number of subscribers up to a maximum amount of $10,000. 36 F.R. 1469, Jan. 30, 1971. These regulations were challenged substantively and procedurally in civil actions in United States District Court in the Eastern District of New York and the Central District of California. While these actions were pending the Postal Service adopted revised regulations

which, *inter alia*, permitted a mailer the choice of purchasing the SOA list and monthly supplements in the form of a computer print-out at ½¢ a page or of subscribing on an annual basis at the previously established rate. 36 F.R. 8373, May 5, 1971. The effect of this change was that within a year all persons obtaining the list did so by the monthly purchase option. The revised regulations will eliminate this option, which experience has shown covers only a small fraction of the costs of maintaining the SOA list, and substitute an annual service fee based on the previous year's experience as the sole method of obtaining the list. For 1976 the feel will be set at an annual rate of $1,500, which will then be prorated from the effective date of the change to the end of the year.

To provide interested advertisers an opportunity to participate in this rulemaking process, the Postal Service, in addition to publishing the Notice of Proposed Rulemaking, sent individual copies of the Notice to each of the purchasers of the SOA list. Comments were received from three persons. All three objected to the amount of the fee as being excessive, two suggesting that such a charge would be contrary to the constitutional rights of the advertisers. One relied on *Universal Specialties, Inc.* v. *Blount*, 331 F. Supp. 52 (C.D. Cal. 1971), in support of this view. It appears, however, that the language relied upon was to the effect that two of the judges of a three-judge court were not satisfied that the Postal Service had justified the imposition of the original $10,000 subscription price. The more definitive and carefully reasoned conclusion of this issue, moreover, appears to be that in *Pent-R-Books, Inc.* v. *United States Postal Service*, 328 F. Supp. 297 (E.D. N.Y. 1971), in which a unanimous three-judge court concluded that on the facts before it an annual charge of between $5,000 and $10,000 was not unduly burdensome.

Inasmuch as the new service fee to be charged is considerably less than the previous subscription charge, is based on the cost experience of the Postal Service and meets the criteria established by Congress for accommodating the conflicting interests of commercial mailers and the unwilling recipients of sexually oriented advertisements, we have concluded that the fee is not unlawful.

Furthermore, the persons submitting comments have not seen fit to include in their comments "supporting data as to any economic impact of the proposed changes on their operations" as suggested in the Notice of Proposed Rulemaking, 41 F.R. 9396, other than in one instance to indicate the number of names on an advertiser's mailing list. As a result the Postal Service is left to consider these objections as simply conclusions.

One person commented unfavorably on the organization of the SOA list, objecting to the duplication of listings with the same address and surname. This duplication, however, is a consequence of the need for the individual listing of the names of family members residing together to ensure that undesired sexually oriented advertisements will not be mailed to the family home under names of members who do not appear on the list and for the separate listing of the variations in the names of persons listed. The Postal Service recognizes that a reduction in the number of listings could lead to some cost savings and so would be desirable if it could be accomplished without detriment to the protection of individuals provided by the present organization of the list. Specific suggestions for restructuring the list to achieve this result within the present general list format would be welcome.

Finally, one person raised the point that there is no provision for making available to customers information concerning fluctuation in cots. If by this it is meant that the data relied upon by the Postal Service in ascertaining the total cost attributable to the SOA list for future years should be made available to advertisers wishing to obtain the list, there seems no need for special provision in these regulations since that data is available to any member of the public to the extent required by the Freedom of Information Act. 5 U.S.C. 552; 39 U.S.C. 410. See 39 C.F.R. Part 265.

All of the comments received by the Postal Service have been carefully considered. The Postal Service has concluded that the proposed amendments to chapter 1 of the Postal Service Manual should be adopted effective July 1, 1976.

Accordingly, in section 123.5 of the Postal Service Manual revise .523 and .524 and .541–.543 to read as follows:

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED, AND GRAPHIC MATTER

* * * * *

123.5 Sexually oriented advertisements.

* * * * *

.52 Application for listing.

* * * * *

.523 Each postmaster shall transmit all applications received at his post office to the Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260 on a weekly basis.

.524 The Office of Mail Classification, Rate and Classification Department, as soon as practical after receipt of a Form 2201, shall place the customer's name and address, and the names and addresses of his minor children if any are included on the application, on the Postal Service's List (hereafter, "List") of persons desiring not to receive sexually oriented advertising. This information will be processed and the List updated monthly. The 30-day period provided by section 3010(b) starts on the effective date of the List on which the person's name first appears.

* * * * *

.54 Availability of postal service lists.

.541 Copies of the List and/or periodic amendments thereto shall be available to any person upon payment of the annual service fee necessary to defray the cost of compiling and maintaining the list and making it available for uses permitted by section 3010 (c). A program year runs from January 1 through December 31. Buyers will receive a copy of the List and monthly updates of additions and deletions to the List for the year in which the purchase is made. The List may be ordered in the form of reduced reproduction of computer printout or magnetic tape. Further information on the format of the tapes may be obtained from the Director, Office of Mail Classification.

.542 The annual service fee will be determined by dividing the number of buyers for the previous calendar year into the total cost to the Postal Service for the previous calendar year of compiling, processing, printing and distributing the List. The service fee for program year 1976 has been determined to be $1,500 per list buyer. This fee for 1976 will be pro rated for the period from the effective date of this section until the end of the program year.

.543 Requests for the List shall be submitted to the Director, Office of Mail Classification, Rates & Classification Department, U.S. Postal Service, Washington, D.C. 20260. A certified or cashier's check must accompany the request. All checks must be payable to the U.S. Postal Service.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual is in the process of being published and will be transmitted to subscribers automatically as soon as possible. Notice of the issuance of this transmittal letter will be published in the usual manner in the FEDERAL REGISTER through an appropriate amendment to 39 C.F.R. 111.3.

(39 U.S.C. 401, 3010)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.76-15733 Filed 5-28-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-26—CONTRACT MODIFICATIONS

Processing Novation and Change of Name Agreements

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. Subpart 3-26.4 Novation and Change of Name Agreements is amended to incorporate an administrative change in paragraph (a) of § 3-26.404.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves an internal administrative procedure. Therefore, the public rule making process is deemed unnecessary in this instance.

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective Date: This amendment shall be effective on June 1, 1976.

Dated: May 24, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

1. Section 3-26.404, *Processing novation and change of name agreements* is amended by revising paragraph (a) to read as follows:

§ 3-26.404 Processing novation and change of name agreements.

(a) Any Health, Education, and Welfare procuring activity upon being notified of a successor in interest to, or change of name of, one of its contractors, shall promptly report such information

by letter through appropriate procurement channels to the Director, Division of Procurement Policy and Regulations Development, OGPM, OASAM.

* * * * *

[FR Doc. 76-15849 Filed 5-28-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination That Six Species of Butterflies are Endangered Species

The Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) hereby issues a Rulemaking pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act) which determines the following butterflies to be Endangered species:

Lotis Blue (*Lycaeides argyrognomon lotis*)
El Segundo Blue (*Shijimiaeoides battoides allyni*)
Smith's Blue (*Shijimiaeoides enoptes smithi*)
Mission Blue (*Icaricia icarioides missionensis*)
San Bruno Elfin (*Callophrys mossi bayensis*)
Lange's Metalmark (*Apodemia mormo langei*)

BACKGROUND

On March 20, 1975, the Service published a Notice of Review for 41 U.S. butterflies in the FEDERAL REGISTER (40 FR 1269) advising that sufficient evidence was on file to warrant a status review of the species with regard to their possible qualification for determination as Endangered or Threatened species under provisions of the Act. The six subject butterflies in this Final Rule were among the 41 reviewed.

Subsequently, on October 14, 1975, the Service published Proposed Rules in the FEDERAL REGISTER (40 FR 48139-48140) advising that sufficient evidence was on file to support proposing a determination that the six subject butterfly species were Endangered species as provided for by the Act. That proposal summarized the factors thought to be contributing to the likelihood that each species could become extinct within the foreseeable future; specified the prohibitions which would be applicable to each species if such a determination were made; and solicited comments, suggestions, objections and factual information from any interested person.

Section 4(b)(1)(A) of the Act requires that the Governor of each State within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened Species or an Endangered species. A letter was sent to the Governor of California on March 17, 1975, notifying him of the Review of Status Notice which included, among others, the six butterflies. As a direct result of this letter a report was prepared for the California Department of Food and Agriculture by Mr. Julian Donahue, Curator of Entomology at the Natural History Museum of Los Angeles County. Eighteen prominent professional and amateur California lepidopterists contributed data and opinions which contributed to the formulation of this report. The final report was submitted to the California Department of Food and Agriculture on May 22, 1975. This report recommended that of 24 California species included in the Review of Status Notice, 6 butterflies be considered Endangered, and 7 be considered Threatened. The El Segundo Blue, Mission Blue, San Bruno Elfin, and Lange's Metalmark were among those thought to qualify as Endangered, while the Lotis Blue and Smith's Blue were among those thought to be Threatened.

In a June 20, 1975 letter from Director Fullerton of the California Department of Fish and Game to the Director, the San Bruno Elfin, Mission Blue, El Segundo Blue, and Lange's Metalmark were recommended for Endangered species determination.

On September 11, 1975, Acting Director, Harold O'Connor responded to Mr. Fullerton stating the Office of Endangered Species staff was concerned with the State's recommendation, and that in addition, because of information not available to the State during their evaluation process, the Lotis Blue and Smith's Blue were felt to qualify as candidates for Endangered species determination.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a "* * * summuary of all comments and recommendations received * * *" be published in the FEDERAL REGISTER prior to adding any species to or removing any species from the "List of Endangered and Threatened Wildlife."

In the March 20, 1975, FEDERAL REGISTER Notice (40 FR 12691) and the associated February 18, 1975, News Release, all interested parties were invited to submit factual reports or information which might contribute to the Review of Status for the included butterfly species.

The October 14, 1975, Proposed Rulemaking which appeared in the FEDERAL REGISTER (40 FR 48139-48140) constituted the onset of the official 60-day public comment period. This period expired on December 12, 1975. An associated News Release was made available on September 7, 1975, and erroneously stated that November 3, 1975, was the final date for receipt of public comments.

Because response from the public was sought on two occasions, all comments specifically pertaining to the 6 subject butterflies received during the period February 18, 1975, to December 12, 1975, were considered.

Letters from 25 persons, including official representatives of 3 conservation organizations, and the U.S. Department of Agriculture were received.

Comments from 18 persons (including 6 biologists and the 3 conservation organizations) fully supported the proposed rule; seven persons, including the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, objected to the proposed determination.

Eighteen persons, including 4 of those in opposition, specifically mentioned habitat preservation or protection as the key to the continued survival of these 6 butterflies.

In its June 20, 1975, letter (see above), the State of California, as represented by Mr. E. C. Fullerton, Director of the State's Department of Fish and Game, stated that those butterflies classified as Threatened in Mr. Donahue's report "not be given threatened status until in-depth studies can be completed on them." Mr. Fullerton also urged "that Federal funding be provided as soon as possible to gather the baseline knowledge needed to avert extinction of endangered forms and to better assess those which may be approaching endangerment."

In addition, Mr. Fullerton sent a second letter, also dated June 20, 1975, which expressed a number of concerns, primarily relating to the application of the Act to "insects, Arthropods, and lower Phyla," as well as a number of matters not properly under the purview of Federal Endangered Species legislation. Mr. Fullerton suggested that the Director provide clarification on these issues to the States prior to the "listing of any butterflies * * *." The Director responded to Mr. Fullerton's concerns in a letter dated March 30, 1976. Since neither the concerns expressed nor the Director's response relate directly to the subject species, they will not be summarized. However, these letters are on file at the Office of Endangered Species, 1612 K St., N.W., Washington, D.C., and may be examined by interested parties.

In a letter dated January 7, 1976, Mr. Fullerton requested the information which led to the Director's inclusion of the Lotis Blue and Smith's Blue in the Proposed Rule of October 14, 1975 (40 FR 48139-48140). A summary of this information was also included in the March 30, 1976 letter from the Director to Mr. Fullerton. This information is summarized in this Final Rule, and is dealt with in further detail in an Environmental Impact Assessment on file at the Office of Endangered Species.

In a letter dated December 8, 1975, which was addressed to the Director, Dr. H. S. Shirakawa, Acting Director, National Program Planning Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, specifically commented on the qualifications of the 6 subject species for determination under provisions of the Act. Dr. Shirakawa suggests that "no scientific case has been made for listing any of the six proposed species." This assessment was made primarily because no biometric or population surveys exist for any of the species. In addition, he asserts that the data for the Lotis Blue is vague. He states further that the host plant of Lange's Metalmark, *Eriogonum nudum* ssp., should be listed instead of the butterfly itself, since the butterfly cannot exist on other subspecies of *E.*

nudum. With regard to the San Bruno Elfin, he states that "its habitat is an excellent real estate area with a high human population density," and that "there is some confusion as to what species and subgenus this butterfly belongs." For the El Segundo Blue he mentions the fact that the caterpillar host plant has a range many times that of the butterfly, and implies that the entire range of the plant may not have been adequately surveyed for the butterfly.

With regard to the adequacy of data employed in the status assessment for the six subject species Section 4(b)(1) of the Act states "The Secretary shall make determinations required by subsection (a) of the section on the basis of the best scientific and commercial data available to him * * *." Thus, even though accurate population estimates for all these species may not be available, their determination is not precluded. In Fact, the small limits of ranges of these butterflies and potential threats to their continued existence, rather than their absolute population numbers, constitute the chief basis for their determination as Endangered.

With regard to the Lotis Blue, the status of one population is known, while that of another has not been recently documented. The Lange's Metalmark feeds only on *Eriogonum nudum* var. *pauciflorum*, the only *Eriogonum* which exists on its range. Although the Antioch population (Contra Costa County, California) of this plant appears to be differentiated, that variety ranges from southern Oregon to southern California according to Dr. James Reveal, the expert botanist knowledgeable about this group of plants. Lange's Metalmark is an isolated subspecies of a widespread butterfly which feeds on many species of *Eriogonum* throughout its range. Thus, determination of the host plant as Endangered or Threatened would not serve the plight of the insect, and it is not justified on the basis of present biological and taxonomic information.

The San Bruno Elfin's habitat does not presently have a high population density, although portions of its range, those which are not too steep, might have potential real estate value. In any event, neither of these factors is pertinent to the determination of Endangered or Threatened species according to the stipulations of Section 4 of the Act. With regard to the San Bruno Elfin's scientific name, the butterfly has been most recently considered to belong to the subgenus *Incisalia* of the genus *Callophrys*. Relegation to the species *mossi* is based upon the recent discovery that it is not conspecific with *Callophrys* (*Incisalia*) *fotis*.

Eriogonum parvifolium, the El Segundo Blue's host, is a plant of southern California's coastal sand dune ecosystems. Most sand dunes where this plant occurs have been sampled for butterflies, and the El Segundo Blue has been found only on remnants of the El Segundo Dune ecosystem.

Among the individuals who disapproved of the proposal all were either amateur or professional lepidopterists who were concerned with the taking prohibitions for listed species. Most of these individuals cited the fact that many individuals of most of the candidates could be collected in a single day with no apparent ill effect on the populations' long-term survival. This fact was used as an argument against a proposed Endangered determination together with the mandatory application of the Act's Section 9 taking prohibition. An examination of the available data summarized in another part of this Final Rule indicates factors other than collecting are responsible for the present Endangered state of the six subject species. Once determined to be Endangered, taking of these butterflies for scientific purposes, or to enhance their propagational or survival could be allowed by permit. For any species as narrowly delimited as those under present consideration any further significant reduction of their population numbers might bring about a serious loss of genetic variability and a concomitant loss of evolutionary adaptability.

Other opposing comments related to the proposition that subspecies should not be determined under the Act; that the Final Rule might be prejudicial against amateur, as opposed to professional, lepidopterists; and that determination of Endangered species that occur on private property is an attempt to control or confiscate these lands.

The first point is not germane. The Act defines the term "species" as follows:

> The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or small taxa in common spatial arrangement that interbreed when mature.

Thus subspecies of wildlife in the nomenclatorial sense are considered as species in the legal intent of the Act.

That professional biologists might be more likely to obtain a permit for taking of the subject species than would amateur lepidopterists is not true, as the qualifications for prospective permittees do not include stipulations of professional or educational standing. It should be noted that such permits are granted for scientific purposes or to increase the likelihood of survival or propagation, and are not issued for the accumulation of specimens of taxa already adequately represented in scientific collections.

Although land acquisition on behalf of Endangered or threatened species is provided for through provisions detailed in Section 5 of the Act, such acquisition does not constitute confiscation or Federal control of private lands.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that the Lotis Blue, El Segundo Blue, Smith's Blue, Mission Blue, San Bruno Elfin, and Lange's Metalmark are in danger of extinction throughout all or a significant portion of their range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the Proposed Rulemaking (40 FR 48139–48140). Those factors were described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*

San Bruno elfin. This butterfly is limited in occurrence to a few moist canyons in San Mateo County, California. Proposed development poses a serious threat to its continued existence. The occurrence of the butterfly is dependent upon present topographic configuration and floristic elements, the most important of which is its caterpillar food plant, stop-crop (*Sedum spathulifolium*).

Lotis blue. At present this butterfly is definitely known to occur only in a few isolated bogs in Mendocino County, California. The principal portion of the butterfly's habitat occurs on a powerline right-of-way. Formerly, a population of the Lotis blue occured at Point Arena, Mendocino County, California, but it has not been found there for over 30 years, and the population is presumed to be extirpated.

Mission blue. This butterfly is limited in distribution to two small isolated populations which occur on the summits of Twin Peaks, San Francisco County, and the San Bruno Mountains, San Mateo County, California. In San Francisco County, the Mission blue was formerly more widespread on the higher hills within the county, but due to expansion of the city and plantings of exotic plants, such as eucalyptus, is now reduced to a tiny remnant on Twin Peaks and may soon become extirpated. In the San Bruno Mountains, the species is uncommon, and proposed developments there would probably eliminate the butterfly.

Smith's blue. This butterfly is known from coastal sand dunes in Monterey County, California. Its largest population occurs on the most coastal portion of the Monterey dune complex at Seaside and probably Fort Ord (U.S. Army), Monterey County, California. The Seaside and Marina populations have been almost extirpated by housing developments and highway construction, while the Fort Ord populations have been most seriously impacted by heavy foot and vehicular traffic, as well as the spread of introduced ice-plant (*Mesembryanthemum* spp.).

El Segundo blue. This butterfly was formerly widespread on the El Segundo sand hills (96 sq. km.), Los Angeles County, California. Now, due to public and private development, the El Segundo blue is limited to a few acres near El Segundo and a larger area at the west end of the Los Angeles International Airport. Any further development on these few remaining sites could well bring about the species' extinction.

Lange's metalmark. Originally from sand dunes from near Antioch and Oakley, Contra Costa County, California. The butterfly has not been found at Oakley for more than 30 years. Near Antioch, the populations are now largely restricted to a few acres north of Wilbur Road. Alteration of the species' habitat has been due largely to industrial and agricultural development.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*

Not applicable for any of the species.

3. *Disease or predation.*

Not applicable for any of the species.

4. *The inadequacy of existing regulatory mechanisms.*

There currently exist no regulations pertaining to the protection and conservation of any of these species.

5. *Other natural or man-made factors affecting its continued existence.*

Not applicable for any of the species.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. The regulations referred to above, which pertain to Endangered Species, are found at Section 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ *1721 Prohibitions.* (a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, taken endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in these Rules also makes all six species eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

INTERAGENCY COOPERATION

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no "Critical Habitat" has yet been determined for any of the six subject species, the other provisions of Section 7 are applicable.

Regulations which appear in Section 17, Title 50 of the Code of Federal Regulations were first published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), and provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species.

EFFECT UPON THE STATES

The determination that these six species are Endangered Species will require the State of California to consider these species when it is negotiating to enter into Cooperative Agreements pursuant to Section 6 of the Act.

California has State laws which recognize the List of Threatened or Endangered Wildlife promulgated pursuant to the Act and provide State protection to these species. This determination will make these six species eligible for such consideration as those State laws provide.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review these six species to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether they should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

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

FORMAT

These final Rules are published in a format different from that set forth in the Proposed Rulemaking. This new format was adopted by Rules published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) and represents no substantive change.

EFFECTIVE DATE

Considering the long period during which the public has had notice of the Proposal to determine these species to be Endangered, and in view of the precarious status of the species and in view of the fact that the adult flights of four of these insects will closely follow the publication date, it has been determined that there is good cause to make this rulemaking effective on June 8, 1976.

Dated: May 26, 1976.

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

Accordingly, § 17.11 of Part 17 of Chapter 1 of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the Lotis Blue, El Segundo Blue, Smith's Blue, Mission Blue, San Bruno Elfin, and the Lange's Metalmark to the list under "Insects," to § 17.11(h) as indicated below:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
INSECTS							
Butterfly, Lotis blue	*Lycaeides argyrognomon lotis*	Not available	United States of America (California).	Entire	E	14	Not available.
Butterfly, El Segundo blue	*Shijimiaeoides battoides allyni*	do	do	do	E	14	Do.
Butterfly, Smith's blue	*Shijimiaeoides enoptes smithi*	do	do	do	E	14	Do.
Butterfly, mission blue	*Icaricia icarioides missionensis*	do	do	do	E	14	Do.
Butterfly, San Bruno Elfin	*Callophrys mossi bayensis*	do	do	do	E	14	Do.
Butterfly, Lange's metalmark	*Apodemia mormo langei*	do	do	do	E	14	Do.

[FR Doc.76-15788 Filed 5-28-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-13-AD; Amdt. 39-2620]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 214, B200, R201, R202 and R203 Propellers

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) requiring initial and repetitive inspections of the wood blades used in Beech Models 214, B200, R201, R202 and R203 propellers, was published in the FEDERAL REGISTER on March 11, 1976 (41 FR 10447).

Interested persons have been afforded an opportunity to participate in the making of the amendment. Only one comment was received. The commentator recommended the maximum time interval for inspection of the blade shanks be three years instead of the five years proposed in the notice, because he believes the problem is related to time in service rather than operational factors. The available evidence does not indicate that blade failures to date are primarily related to aging of the wood. In addition, there is evidence that the blades are experiencing heavy mechanical loads due to acceleration of the propeller by the engine. The FAA believes that sufficient information will be obtained during the first inspection to either prove the accuracy of the five year interval or establish the necessity for a shorter interval. Accordingly, for the present, the five year inspection interval will be retained in the adopted rule.

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 adding the following new AD.

BEECH. Applies to Beech Aircraft Corporation B200, R201, R202, R203, and 214 Series wood blade propellers having Beech Aircraft Corporation manufactured B200, R201, R203, 214 or 272 Series blades installed. (These propellers were installed originally on Beech Models 35, A35, B35, C35, D35, E35, 35R, 45 (Military YT-34), and 50 (Military L-23A) airplanes, but may be installed on other airplanes.)

Compliance: Required as indicated, unless already accomplished.

To prevent failure of wood blades in these propellers, accomplish the following:

(A) Within the next 100 hours' time in service or one year, whichever comes first, after the effective date of this AD, and thereafter at intervals not to exceed 300 hours' time in service or five years, whichever comes first, from the last inspection, visually inspect the blades as follows:

1. Carefully remove the plastic coating to expose the shank of the blade for a minimum distance of 4½" outboard of the ferrule.

2. Using a 10-power glass, visually inspect the blade surface for cracks and separation as shown on the reproduction of a deteriorated blade in Figure 1.

3. If no deterioration is found, reinstall the plastic film over the exposed area in accordance with Univair Process (P-200) or an FAA-approved equivalent procedure.

4. If the blade shows any sign of deterioration prior to further flight, remove it from service and replace it with an eligible airworthy blade.

5. Only an approved propeller repair station is authorized to accomplish the inspection required in this paragraph.

(B) Within the next 100 hours' time in service or one year, which ever comes first, after the effective date of this AD and at each annual inspection thereafter, visually inspect the blade leading edge and tips as follows:

1. Using a 10-power magnifying glass examine the tipping area for cracks in the plastic coating coming from under the tipping.

2. Check for looseness of the tip and leading edge sheathing by holding the blade securely and gripping the sheathing by hand and attempting to flex the tipping while visually observing for relative motion between the piece to which force is applied and adjacent sheathing and blade.

3. If any of the above conditions are noted, prior to further flight, replace the blade with an eligible airworthy blade.

NOTE.—(Beech Aircraft Corporation no longer manufactures Beech Models 214, B200, R201, R202 and R203 propellers; however, propellers and replacement blades as hereinafter listed may be installed on the indicated airplane models.)

REPLACEMENT UNIVAIR WOOD BLADES

Univair blade model	*Beech propeller assembly models*
FA203-218 or FA 203-219	R200-100/R201-217-88 and R203-218-88.
FA200-244 or FA 200-245	B200-105/B200-220-88 and B200-100/B200-220-88 and B200-100/B200-244-88 and B200-100/B200-234-88 and B200-100/B200-264-88.

NOTE.—See Propeller Specification P-875 for further information.

REPLACEMENT METAL BLADE PROPELLER ASSEMBLIES

Eligible propeller assemblies	*Aircraft models*
Beech 215-109/215-207-88	35, A35, B35, C35, D35, E35, 35R.
Beech 215-109/215-213-84 or Beech 215-107/215-213-84	A35, B35, C35, D35, E35, F35, G35.
Beech 215-107/215-207-88	35, A35, B35, C35, D35, E35, 35R.
Hartzell HC12X20-7 (B, C or D) or Hartzell HCD2X20-7/8433-0	35, A35, B35, C35, D35, E35, 35R.
Beech 215-102/272-234-98	Model 50.

NOTE.—See Aircraft Type Certificate Data Sheet and/or Propeller Specifications for approval of specific airplane propeller engine combinations.

This amendment becomes effective June 2, 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 of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on May 14, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.



[FR Doc.76-15680 Filed 5-27-76;8:45 am]

[Docket No. 76-CE-19EAD; Amdt. 39-2621]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 336 and 337 Series Airplanes

Amendment 39-1594, AD 73-04-02, published in the FEDERAL REGISTER on February 22, 1973, and corrected in the FEDERAL REGISTER on March 12, 1973, is an Airworthiness Directive (AD) applicable to Cessna 336 and 337 series airplanes with more than 5,000 hours' time in service (10,000 hours' time in service for pressurized models). AD 73-04-02 requires repetitive eddy current inspections of certain locations on the wing front spar lower caps for cracks and replacement of the spar if cracks are found. Subsequent to the issuance of AD 73-04-02 the agency has determined that additional areas on the wing front spar lower cap may develop fatigue cracks and must be inspected. In addition, fatigue tests have disclosed that certain locations on the wing rear spar lower cap may develop fatigue cracks which require inspection. The manufacturer has commenced installing a wing having structurally improved front and rear spars on current production aircraft which do not require repetitive inspections for fatigue cracks at this time. As a result of the foregoing, AD 73-04-02 is being superseded by a new AD, applicable to Cessna 336 and 337 airplanes, that will require repetitive inspections at certain locations on both the wing front and rear spar lower caps for cracks on Cessna 336 and 337 series airplanes, except those current production airplanes equipped with wings having the improved spars.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than thirty (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 adding the following new AD.

CESSNA. Applies to Model 336 (Serial Numbers 336-0001 thru 336-0195), 337, M337B and T337 series (Serial Numbers 337-00001 thru 337-01548), and Model T337G (Serial Numbers P337-0001 thru P337-0138) airplanes.

Compliance: Required as indicated, unless already accomplished.

To detect cracking of the wing front and rear spar lower caps:

I. A. On all airplanes (except pressurized airplanes) with 5,000 or more hours' time in service, or upon the accumulation of the first 5,000 hours' time in service (see Note 2), and

B. On all pressurized airplanes with 10,000 or more hours' time in service, or upon the accumulation of the first 10,000 hours' time in service:

1. Within the next 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 500 hours' time in service, accomplish the following:

a. Left and right wing front spar lower cap inspection.

1. Inspect three fastener holes on the left wing and three fastener holes on the right wing for wing spar cracks using eddy current inspection procedures outlined in Cessna Service Letter ME76-3, Supplement No. 1, dated March 5, 1976, or later approved revisions. Figure 1 shows the area involved and the three fasteners (two NAS 221 screws at W.S. 64.41 and the jack point bolt hole at W.S. 68.45) that are to be inspected.

2. Remove the two NAS 221 screws at Wing Station 64.41 one at a time for this inspection

and hold the boom fairing firmly against underlying thicknesses of material to insure proper eddy current probe depth settings during this inspection. A cross-section with the screws at W.S. 64.41 removed is shown in Figure 2. Figure 3 shows the spar assembly (less boom and wing skins) and the relationship of the lower cap to the other parts at the strut attachment. Figure 4 shows the spar cross-section thru the jack point bolt hole.

b. Left and right wing rear spar lower cap inspection.

1. Dye penetrant inspect the lower spar cap area between two and three inches (2nd rivet outboard of W.S. 66.00 rib) outboard of wing station 66.00 rib for spar cap cracks originating in rivet hole in accordance with Cessna Service Letter ME76-3, Supplement No. 1, dated March 5, 1976, or later approved revisions. Figures 5, 6, and 7 show the location of the area on the rear spar lower cap to be inspected.

II. If cracks are found in either the right or left wing front spar lower cap during any inspection required by this AD, prior to further flight, replace the front spar lower cap in both the right and left wing; and if cracks are found in either the right or left wing rear spar lower cap during any inspection required by this AD, prior to further flight, replace rear spar lower cap in both the right and left wing. However, aircraft found to have cracked spars during the required inspections may be flown in accordance with FAR 21.197 to a base where the spar replacement can be accomplished.

III. Cessna Service Letter ME76-3, dated January 9, 1976, or later approved revisions, provides an alternate method of preparing the aircraft for inspection of the front spar lower cap screw holes at W.S. 64.41 that will reduce time and cost entailed in performing the required repetitive inspections.

IV. Aircraft that have had the front wing spar lower cap inspections in accordance with AD 73-04-02 within the past 100 hours' time in service need not have the front spar repetitive inspection repeated until the next rear spar repetitive inspection is due. Aircraft with more than 100 hours' time in service since the last front spar lower cap inspection in accordance with AD 73-04-02 must have the front and rear spars inspected in accordance with this AD.

V. Repetitive inspections required by this AD must also be accomplished on those spar caps replaced in accordance with this AD upon the accumulation of 5,000 hours' time in service and at 500 hour intervals thereafter, except for pressurized aircraft which must be inspected upon accumulation of 10,000 hours' time in service, and at 500 hour intervals thereafter.

VI. Notify in writing the Chief, Engineering and Manufacturing Branch, FAA, Central Region, of the location and length of any crack found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.)

VIII. The time interval between the repetitive front and rear spar inspections required by this AD, after initial inspection of the front and rear spars in accordance with this AD, can be adjusted ±25 hours to coordinate these inspections with regular scheduled maintenance or inspections.

VIII. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA Central Region.

NOTE.—(1) Cessna Service Letters ME76-3 dated January 9, 1976, and ME76-3, Supplement No. 1, dated March 5, 1976, or later approved revisions, cover the subject matter of this AD.

NOTE.—(2) For those operators/owners who have engaged in contour or terrain following operations at low altitudes, such as, power/pipeline patrol, fish or game spotting, aerial applications, police patrol, livestock management, etc., Cessna recommends and FAA strongly urges initiation of these inspections at 3,000 hours and each 300 hours thereafter in accordance with the service letter. The location and length of any cracks found during inspections at 3,000 or more hours' time in service or reptitive inspections should be reported to the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes Amendment 39-1594, AD 73-04-02.

This amendment becomes effective June 2, 1976.

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

Issued in Kansas City, Missouri, on May 14, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

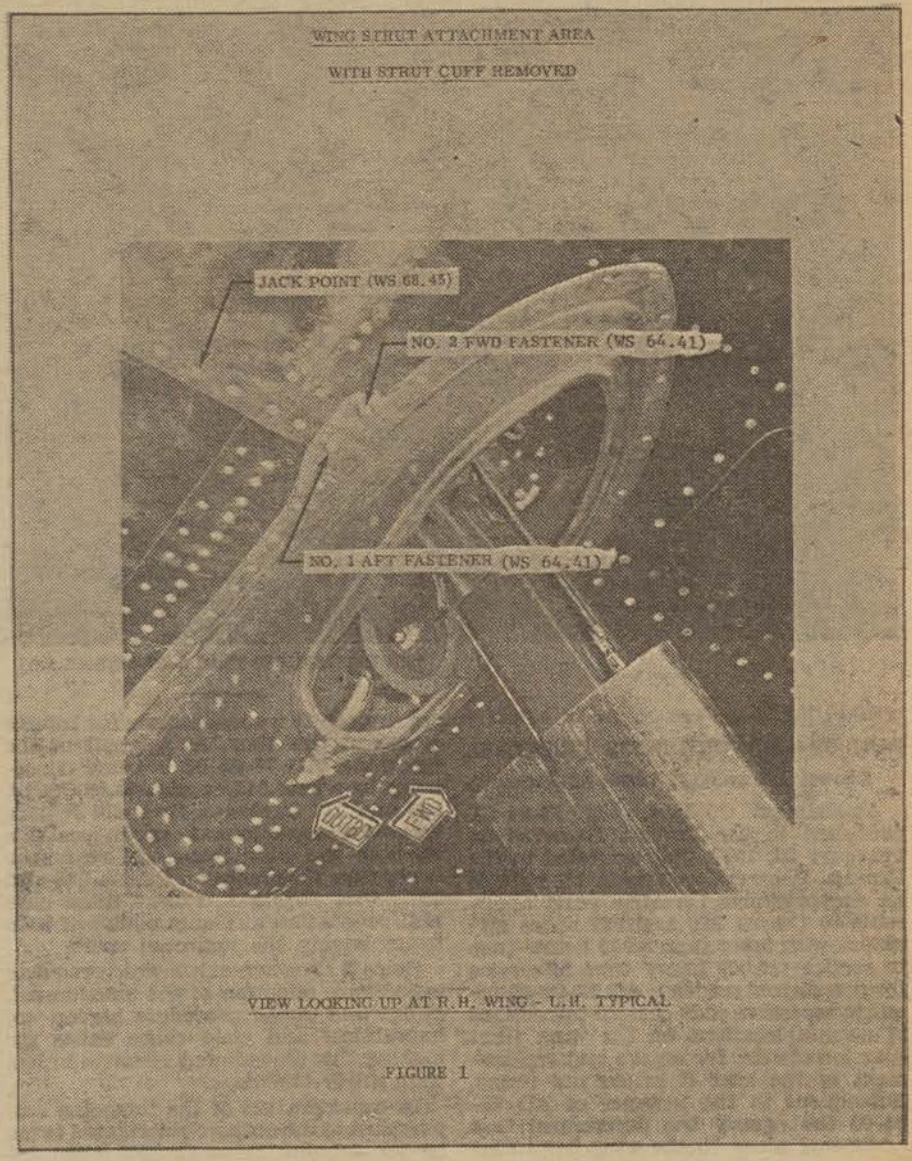
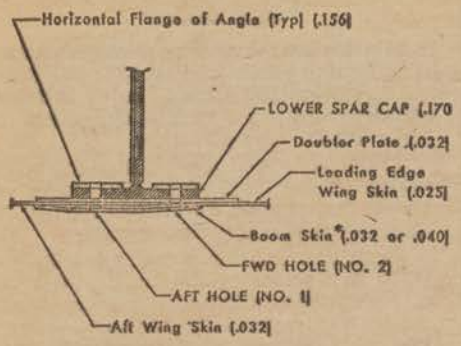


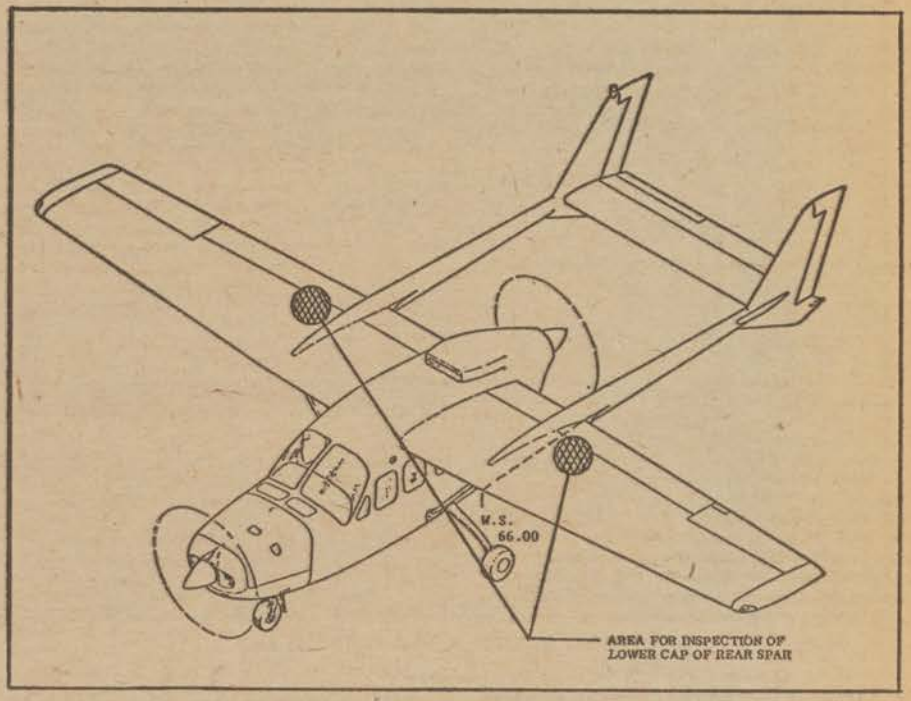
FIGURE 1

LOWER SPAR CAP AT FASTENERS
Wing Station 64.41



*.032 THRU SN 337-0755
.040 SN 337-0756 AND ON

Fig. 2



FRONT WING SPAR-BOOM & STRUT ATTACHMENT AREA
L.H. Shown - R.H. Typical

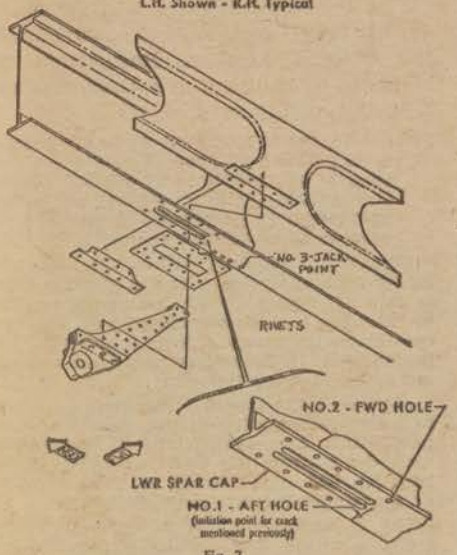
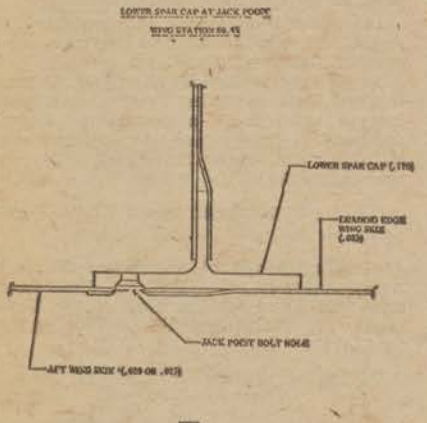


Fig. 3



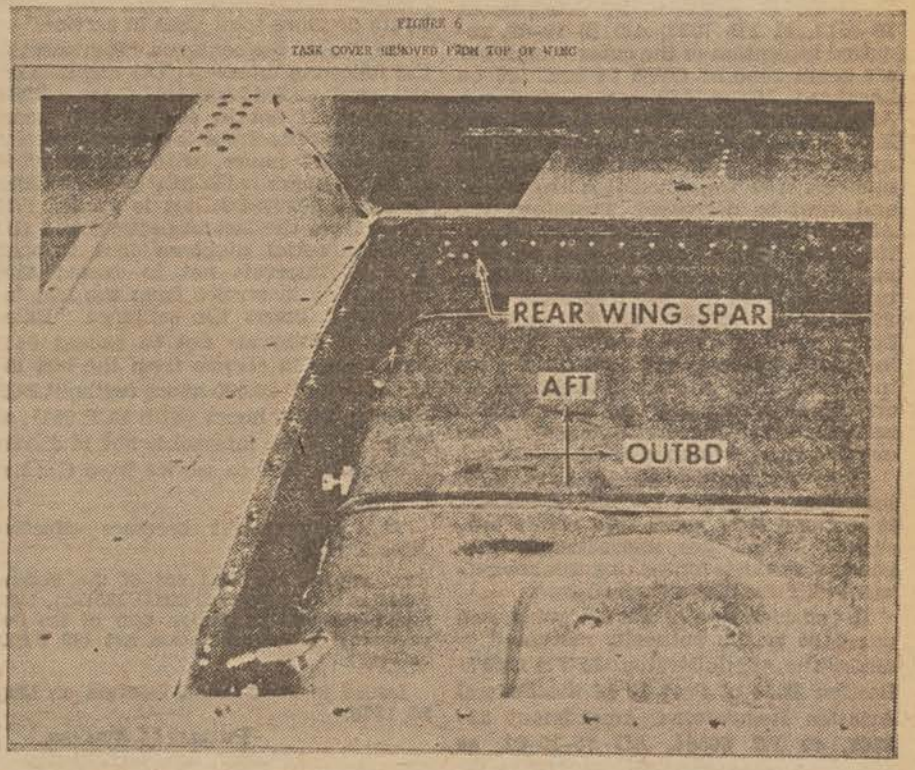
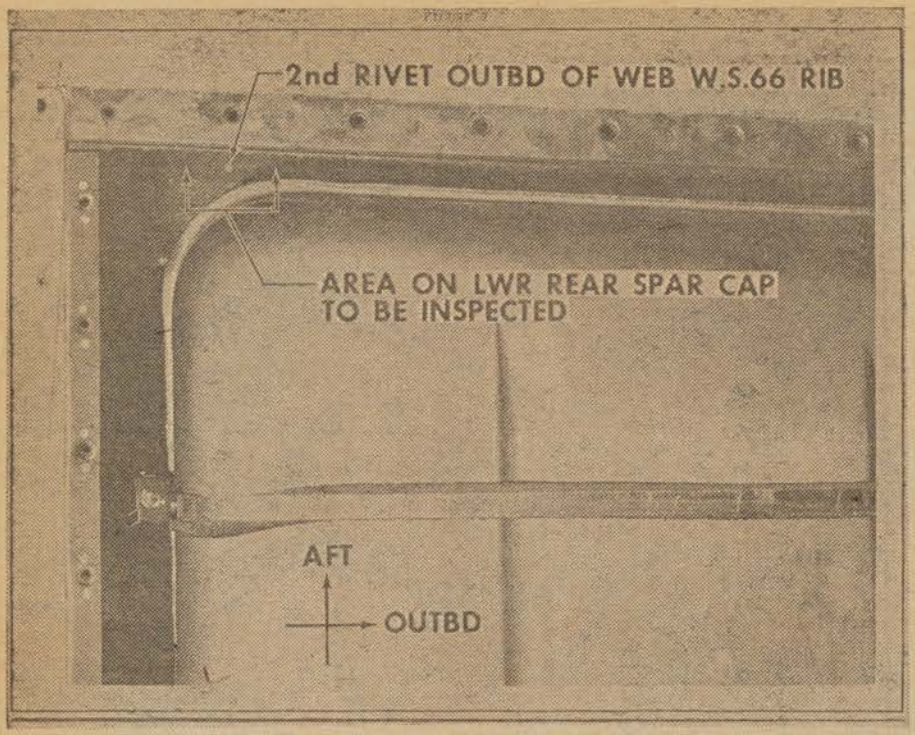


FIG. 4



[FR Doc.76-15681 Filed 5-27-76;8:45 am]

[Docket No. 75-SO-143; Amdt. 39-2625]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed Model 382 Series

Amendment 39-2362, 40 FR 50544, AD 75-19-02, as amended by Amendment 39-2513, 41 FR 7088, AD 75-19-02, required inspection of the outer wing lower aft beam caps at OWS 54 and 108 on Lockheed Model 382 series airplanes. After issuing Amendment 39-2513, the FAA determined that the repetitive inspection interval of 6300 hours for serial numbers 4299 through 4541 is inadequate and must be decreased. Therefore, the AD is being amended to require inspection of serial numbers 4299 through 4541 at intervals not to exceed 3400 hours time in service from the last inspection until 20,000 hours, (without ECP 954) or 24,000 hours, (with ECP 954) at which time the interval is not to exceed 1700 hours time in service from the last inspection. An error was also noted in the airplane serialization in the first paragraph, second sentence, which will be corrected.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) Section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2362, 40 FR 50544, AD 75-19-02, as amended by Amendment 39-2513, 41 FR 7088, AD 75-19-02 is amended as follows:

(1) In the first paragraph, second sentence, revise the phrase, "and on airplane serial numbers 4298 through 4541 with 12,600 hours or more total time in service," to read, "and on airplane serial numbers 4299 through 4541 with 12,600 hours or more total time in service."

(2) Delete the sentence, "Reinspect at the following intervals: '(A) airplane serial numbers 3946 and 4101 through 4298, at intervals not to exceed 3400 hours time in service from the last inspection until 20,000 hours (without ECP 954) or 24,000 hours (with ECP 954) at which time the interval is not to exceed 1700 hours from the last inspection, and (B) airplane serial numbers 4299 through 4541 at intervals not to exceed 6300 hours time in service from the last inspection." Insert the sentence, "Reinspect at intervals not to exceed 3400 hours time in service from the last inspection until 20,000 hours (without ECP 954), or 24,000 hours (with ECP 954), at which time the interval is not to exceed 1700 hours time in service from the last inspection."

This amendment becomes effective June 4, 1976.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Georgia on May 20, 1976.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.76-15722 Filed 5-28-76;8:45 am]

[Docket No. 76-EA-26; Amdt. 39-2628]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-23 type airplanes.

There have been reports that the activation of the landing or taxi lights or heater can cause a deviation of up to 25 degrees in the magnetic compass.

Since this deficiency can exist or develop in aircraft of similar type design, an airworthiness directive is being issued which requires an inspection and alteration where necessary of the affected wiring.

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) section 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new Airworthiness Directive as follows:

PIPER.—Applies to Model PA-23-250 (6 place) S/Ns 27-3837, 27-3944 to 27-7554092 inclusive; 27-7554094 to 27-7554159 inclusive; 27-7554161 to 27-7654018 inclusive; 27-7654020 to 27-7654024 inclusive; 27-7654026 to 27-7654036 inclusive.

Compliance required within the next 100 hours' time in service after the effective date of this AD unless already accomplished. To prevent the hazards associated with the excess magnetic compass deviations when the landing/taxi lights and/or heater are turned on, accomplish the following:

(a) Check the magnetic compass function to ascertain operation of the magnetic compass within acceptable limits in accordance with the instructions given in Service Bulletin No. 493, dated March 25, 1976, or with an approved alternate method.

(b) If compass deviation exceeds 10 degrees, a wiring modification is required in accordance with the referenced service bulletin or an approved alternate method.

(c) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, who must also approve alternate methods of compliance. (Piper Service Bulletin No. 493, dated March 25, 1976, covers this subject).

This amendment is effective June 4, 1976.

(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, N.Y., on May 21, 1976.

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

[FR Doc.76-15723 Filed 5-28-76;8:45 am]

[Docket No. 76-EA-29; Amdt. 39-2629]

PART 39—AIRWORTHINESS DIRECTIVES

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-31P type airplanes.

There has been a report of an alternator switch bus bar link contacting an adjacent fuselage bulkhead, and shortening out the system. Because of the possible fire and electrical damage, an airworthiness directive is being issued which will require an alteration of the bus bar link insulation.

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] section 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new Airworthiness Directive as follows:

PIPER.—Applies to Model PA-31P, S/Ns 31P-1 to 31P-7630001 inclusive, and 31P-7630003.

Compliance required within the next 100 hours in service after the effective date of this AD unless already accomplished. To prevent the hazards associated with the possibility of the alternator switch bus bar link shorting to the adjacent fuselage bulkhead, accomplish the following:

(a) Alter the existing switch bus bar link insulation in accordance with the "Instructions" paragraph in Service Bulletin No. 473, dated March 24, 1976, or with an approved alternate method.

(b) Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region who must also approve any alternate alteration.

This amendment is effective June 4, 1976.

(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, N.Y., on May 21, 1976.

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

[FR Doc.76-15724 Filed 5-28-76;8:45 am]

[Docket No. 15729; Amdt. 39-2633]

PART 39—AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault—Breguet Aviation Model Falcon 10 Airplanes

There have been reports of starter-generator failures occurring on Avions Marcel Dassault—Breguet Aviation (AMD/BA) Model Falcon 10 airplanes that could result in a loss of electrical power to the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires repetitive inspection of generator brushes and bearings and replacement of the brushes or generator, as necessary, on certain AMD/BA Model Falcon 10 airplanes.

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

(Sec. 313(a), 601, and 603, of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)))

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVIONS MARCEL DASSAULT — BREGUET AVIATION (AMD/BA). Applies to Model Falcon 10 airplanes, certificated in all categories, which incorporate General Electric (GE) Model 2CM504D1 or 2CM504D1A starter-generators.

Compliance is required as indicated.

To prevent a possible loss of electrical power to the airplane, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished within the last 40 hours time in service, and thereafter at intervals not to exceed 50 hours time in service from the last inspection, comply with the following:

(1) Remove the starter-generator, GE Model 2CM504D1, or 2CM504D1A.

(2) Inspect the brushes, and replace them as necessary, in accordance with paragraph 2.B. of GE Service Bulletin No. 2CM504D1/D1A-24-01, dated May 15, 1975, or an FAA-approved equivalent.

(3) Inspect the drive-end bearing for radial play in accordance with the procedures specified in paragraphs 2.A.(1) through 2.A.(4) of the section entitled "Accomplishment Instructions" of GE Service Bulletin No. 2CM504D1/DIA-24-01, dated May 15, 1975, or an FAA-approved equivalent, and determine the average radial play for the three measurements required.

(b) If the average radial play determined in accordance with an inspection specified in paragraph (a)(3) of this AD, exceeds 0.0020 inch (0.051 mm), before further flight, replace the starter-generator, with either—

(1) A serviceable starter-generator GE Model 2CM504D1 or 2CM504D1A or an FAA-approved equivalent part. Prior to installation, inspect the replacement starter-generator in accordance with paragraph (a) of this AD, and, thereafter, continue to inspect in accordance with that paragraph; or

(2) A starter-generator of improved design, GE Model 2CM504D1D, or an FAA-approved equivalent part.

(c) The inspections specified in paragraph (a) of this AD may be discontinued upon the installation of a starter-generator GE Model 2CM504D1D or an FAA-approved equivalent part.

(d) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o U.S. Embassy, A.P.O. New York, N.Y. 09667, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the change for that operator.

This amendment becomes effective June 15, 1976.

Issued in Washington, D.C. on May 25, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-15725 Filed 5-28-76;8:45 am]

[Docket No. 76-EA-31; Amdt. 39-2624]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 75-27-08. Since publication there has been some misunderstanding in the application of the AD. It was not intended that a repair should be accomplished upon a finding, only, of an alignment of rivets. A penetration of the vertical rivets was also intended. Therefore a clarifying amendment is being issued.

Since the amendment is clarifying in nature and less restrictive, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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 amending AD 75-27-08 as follows:

In paragraph (c), delete all before the first comma and insert in lieu thereof "If more than one rivet is so aligned and there is a penetration of more than one of five forward vertical rivets."

Change Piper Service Bulletin No. 464 to Piper Service Bulletin No. 464A.

This amendment is effective June 3, 1976.

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

Issued in Jamaica, N.Y. on May 20, 1976.

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

[FR Doc.76-15675 Filed 5-28-76;8:45 am]

[Airworthiness Docket No. 75-WE-15-AD; Amdt. 39-2627]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

Amendment 39-2166 (40 FR 16189), AD 75-08-14, as amended by Amendment 39-2201, (40 FR 20816), requires inspections and replacements, as necessary, of the C-1, C-2 and C-3 cargo doors upper

hooks on Lockheed-California Company L–1011–385 series airplanes. After issuing AD 75–08–14, as amended, stress corrosion failures of upper and lower hooks and related upper and lower components occurred on the cargo doors necessitating issuance of Amendment 39–2590 (41 FR 17875), AD 76–09–03, requiring additional inspections and modification. AD 76–09–03 Paragraph (d), provides for permanent corrective modifications of hooks and related components on the C–1, C–2 and C–3 cargo doors. The terminating action of the AD 76–09–03 is also a terminating action for the repetitive inspection requirements of AD 75–08–14, therefore the agency has determined that the AD 75–08–14 should be amended to reflect this terminating action.

Since this amendment provides an alternate means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–2166, (40 FR 16189), AD 75–08–14, as amended by Amendment 39–2201, (40 FR 20816), is further amended, in pertinent part, as follows:

1. Add a new paragraph (d) to read:

(d) The repetitive inspections required by paragraph (b) of this AD may be discontinued after accomplishment of modifications and checks in accordance with FAA-approved Lockheed-California Company Service Bulletin 093–52–087, dated March 11, 1976, or later FAA-approved by the visions or an equivalent approved by the Chief, Aircraft Engineering Division, FAA Western Region. (Reference: Paragraph (f), AD 76–09–03).

2. Redesignate existing paragraphs (d) and (e) as new paragraphs (e) and (f), respectively.

This amendment becomes effective June 7, 1976.

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

Issued in Los Angeles, California on May 20, 1976.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.76–15676 Filed 5–28–76;8:45 am]

[Docket No. 15722; Amdt. 39–2631]

PART 39—AIRWORTHINESS DIRECTIVES

Dornier GmbH Model Do 28D–1 Airplanes

There have been reports of engine control teleflex cables chafing electrical cables on Dornier Model Do 28D–1 airplanes which have resulted in electrical shorts that could cause smoke and in-flight fires. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires a visual inspection of electrical cables for chafing and the installation of cable wear protection material on Dornier Model Do 28D–1 airplanes.

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

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DORNIER GmbH. Applies to Model Do 28D–1 airplanes certificated in all categories, serial numbers 4001 through 4039.

Compliance is required as indicated, unless already accomplished.

To prevent smoke and fire resulting from the chafing of teleflex engine control cables against electrical cables, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, visually inspect the electrical cable insulation under each engine for chafing damage at those points where the throttle and mixture control teleflex cables cross the electrical cables. Actuate the teleflex cables during the inspection. If a chafed electrical cable is found, repair the cable in accordance with paragraph (c) of this AD before further flight.

(b) Within the next 100 hours time in service after the effective date of this AD, unless earlier compliance is required pursuant to paragraph (a) of this Ad, comply with paragraph (c) of this AD.

(c) Wrap helical Rapidon wear protection material, or FAA-approved equivalent material, around the electrical cables and teleflex cables under each engine in accordance with Dornier Service Bulletin 1031–1901, dated March 25, 1971, or an FAA approved equivalent.

This amendment becomes effective June 15, 1976.

Issued in Washington, D.C. on May 21, 1976.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc.76–15677 Filed 5–28–76;8:45 am]

[Airspace Docket No. 76–NW–15]

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

Alteration of Transition Area

● The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to eliminate redundancy in controlled airspace designation by deleting a portion of the Moses Lake, Washington, Transition Area. ●

A review of controlled airspace around Moses Lake, Washington, disclosed that a portion of the Moses Lake Transition Area designated 5500 feet AGL is presently overlapped by the Ellensburg, Washington, 1200-foot Transition Area, and the remainder is to be overlapped by the Yakima, Washington, 1200-foot AGL Transition Area. The Moses Lake, Washington, Transition Area is amended, therefore, by deleting the last portion of the description which reads:

That airspace southwest of Moses Lake extending upward from 5500 feet MSL bounded on the east by longitude 120°00'00" W., on the southeast by the northwest edge of V–448, on the west by the east edge of V–25, and on the north by latitude 47°00'00" N.

Since this amendment is essentially editorial in nature and will not effect users of the airspace in which the public is interested, notice and public procedure thereon is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations, Section 71.181 (41 FR 551) Moses Lake, Washington, Transition Area is amended effective 0901 GMT July 15, 1976, to read as follows:

MOSES LAKE, WASHINGTON

That airspace extending upward from 700 feet above the surface within a 19-mile radius of Grant County Airport (Latitude 47°12'29" N., Longitude 119°19'05" W.), within 7 miles southeast and 12 miles northwest of the Ephrata VORTAC 043° and 223° radials extending from 8 miles southwest to 19 miles northeast; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at Latitude 47°45'00" N., Longitude 120°00'00" W., extending eastwardly along Latitude 47°45'00" N. to intersect the arc of the 52-mile radius circle, on the southeast by the northwest edge of V–112W, on the south by V–298, on the west by Longitude 120°00'00" to point of beginning.

(Section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Washington, on May 21, 1976.

C. B. WALK, Jr.
Director, Northwest Region.

[FR Doc.76–15721 Filed 5–28–76;8:45 am]

[Airspace Docket No. 76–GL–22]

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

Alteration of Control Zone

● The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Akron, Ohio, control zone. ●

The Akron, Ohio Municipal Airport Control Tower is presently operating continuously. The Tower will be closed during the night hours from 2300 to 0700 local time daily effective September 9, 1976. The Akron control zone is dependent upon the Tower for required weather reporting and communications with airport traffic. Thus, the control zone will have to be discontinued during the hours

the Tower is closed. To make this possible, a change is required in the designation of the control zone to allow part time operation.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 9, 1976, as hereinafter set forth:

In § 71.171 (41 FR 355), the following control zone is amended as follows:

AKRON, OHIO (AKRON MUNICIPAL AIRPORT)

Add: "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual".

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

Issued in Des Plaines, Illinois, on May 10, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-15678 Filed 5-28-76;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE B—REGULATIONS RELATING TO PUBLIC LANDS

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2393]

PART 3520—COMPETITIVE COAL LEASING

Coal Leasing Procedures

On March 16, 1976, proposed rulemaking was published in the FEDERAL REGISTER (41 FR 11035) to clarify procedures in the Department of the Interior's program for competitive leasing of Federal coal in accordance with the Energy Minerals Activity Recommendation System (EMARS). EMARS is a system of procedures which fully considers both resource development and environmental protection in the Federal coal leasing decision process. EMARS combines nominations of potential leasing areas, multiple resource planning, environmental analysis and tract evaluation into a system by which lease decisions can be made.

In accordance with the Department's policy on public participation in rulemaking, a comment period of 30 days, ending on April 15, 1976, was announced. However, comments received through May 4 have been given full consideration in formulating the final rulemaking.

Comments were received from 38 soures as follows: Federal agencies—8, State agencies—7, Local governments—2, Mining and Energy Industry—11, News Media—1, Special Interest Groups—7, Individuals—2. In addition, comments were received from the Western Governors' Regional Energy Policy Office.

Several comments expressed the view that the proposed rulemaking was vague and too general. An effort has been made in final rulemaking to more carefully specify the steps and procedures involved in EMARS. It should be noted that the EMARS process utilizes the existing Bureau of Land Management land use planning process (Bureau's Manual 1601–1608) including Management Framework Planning and the provisions of the National Environmental Policy Act (NEPA). More detailed explanations of the Management Framework Planning and environmental impact statement processes may be found in those documents.

The single most significant change in the final rulemaking is the return to a one-tier nominations system. In the proposed rulemaking, nominations were to be received from industry, whereupon they would be published and a subsequent opportunity would be provided for comments and indications by the States and the public of areas which should not be leased. Several comments indicated that the two-tier procedure would not give the public adequate time or information to effectively comment on the industry nominations. In the final rulemaking, we have eliminated this second tier in the nominations process. Both industry, the public and the States will be asked to comment at the same time. In addition, to ensure effective public input, the public and the States are offered the opportunity to comment at a later stage in the planning process, after the nominations are received and multiple resource values are analyzed. A public meeting will be held for this purpose (43 CFR § 3520.1-3(a)(1)). Under these revised procedures, the public and the States will be able to make more informed comments on industry nominations than would have been possible under the two-tier system in the proposed rulemaking.

The comments also expressed concern that environmental considerations were not given sufficient emphasis in the proposed rulemaking. We believe the EMARS process will inject environmental considerations into the earliest stages of the coal leasing decision process by requiring that coal lease nominations be analyzed in conjunction with other resource values through the planning process. Environmental impact statements are then undertaken on the basis of proposed lease tract recommendations arising out of this comparative resource analysis. In the event that the proposed action is deemed not to be a major Federal action significantly affecting the quality of the human environment, an environmental analysis record (EAR) will be prepared. The Bureau will conduct public meetings in conjunction with the coal leasing EAR's. We believe these steps will help assure maximum environmental consideration in the lease decisions.

The comments also suggested that clarification was needed in defining the role of State governments in the EMARS process. The final rulemaking provides that State governments will be invited to participate in the analysis of nominations, in inventory data gathering and review of the multiple resource analysis and recommendations, and in the proposed tract recommendation phase. In addition, the Bureau's Management Framework Planning process requires public meetings in which the States are invited to participate. The States will also be consulted in the preparation of any environmental impact statement. Moreover, after publication of a draft regional environmental impact statment, there will be a public hearing in which the States may participate. State governments will be invited to participate in the actual preparation of any environmental impact statements. Finally, the Secretary will consult with State governors immediately prior to any lease sale decision. We believe these requirements will afford State governments ample opportunity to participate in the lease decision process.

It was also suggested that the objectives of EMARS should be changed to emphasize resource development. There is no intent to emphasize resource development or environmental protection. The objective in this system is to arrive at a balance in which coal development and environmental protection are given equal weight and full consideration.

On April 29, 1976, the Secretary directed the preparation of ten (10) regional environmental impact statements covering the following areas: Sweetwater-Kemmerer area of Wyoming, Northern Powder River Basin in Montana, West Central North Dakota, Central Utah, Southern Utah, Hanna Basin-Atlantic Rim area of Wyoming, West Central Colorado, the Stat Lake-Bisti area of New Mexico, North Central Alabama, and East Central Oklahoma. The regional environmental impact statement will cover all significant coal-related activities within the region designated. However, the boundaries outlined may be subject to adjustment as further information, such as nominations, becomes available. With respect to regions, the EMARS process will be carried out as follows:

DESCRIPTION OF THE PROCESS

Nominations. The Department will issue a call for nominations, in which industry, State governments and the public will be invited to indicate which areas the Department should or should not lease. Nominations of such areas may be submitted during a sixty day period. At the close of that period, the Bureau of Land Management will prepare maps depicting the nominated areas. It is anticipated that it will take thirty days for the preparation of these maps. The maps will be furnished to appropriate State agencies and will be available for review by the public at appropriate BLM offices.

Existing competitive lease applications will be treated as nominations in this process. Management Framework Plans are important sources of information which the public and industry should use in formulating nominations.

BLM Planning Process. The nominations received will be analyzed in conjunction with the BLM planning process, including Management Framework Planning (BLM Manual 1601–1608). State governments will be invited to participate in this initial analysis of nominations. The nominations will be compared against other resource data identified through the Multiple Resource Inventory and Analysis stage of the Management Framework Planning process. In that effort, the Bureau seeks information from other Federal agencies, State agencies and from the public concerning the various resources within the Management Framework Planning area. In cases where a Management Framework Plan already exists, the nominations will be compared with the multiple resource data prior to the development of proposed tract recommendations. In those instances where a Management Framework Plan does not exist or is not adequate at the time the nominations are received, the Bureau will complete a multiple resource inventory/analysis of the various resources within the defined Management Framework Planning area for comparison with the coal lease nominations. The Management Framework Plan also includes socio-economic information.

The Bureau of Land Management will make available appropriate planning information for use by the public in considering coal-related Management Framework Plan recommendations. A meeting will then be held in which the public and States are invited to consider and comment on the coal lease nominations together with the multiple resource inventory/analysis. This step will afford public consideration of the comparative resource and land use values. Management Framework Plans will be continuously revised or supplemented to include information from nominations, U.S. Geological Survey coal mapping information, and data on reclamation potential from site studies carried out under the Department's Energy Minerals Rehabilitation Inventory and Analysis program.

After the public meeting phase, the Bureau of Land Management, in conjunction with the U.S. Geological Survey and after consultation with appropriate State officials will select proposed tract recommendations from Proposed Coal Leasing Areas identified through the nominations process and land use planning process.

Environmental Impact Statements. The proposed tract recommendations arising out of the Management Framework Planning process will be identified in a regional environmental impact statement as defined in the Secretary's memorandum of April 29, 1976. These regional environmental impact statements will consider not only proposed coal lease tract recommendations, but other coal related activities as well, including pending mining plans, rights-of-way, etc.

Information and assistance will be sought from appropriate Federal agencies and State governments in the preparation of a draft environmental impact statement. The draft will then be published for public review and comment in accordance with the provisions of the National Environmental Policy Act and the Departmental guidelines pursuant thereto. After publication of the draft environmental impact statement, the Department will conduct hearings in which the public and the States will be invited to comment on the statement and the proposed actions and alternatives described therein.

After making any necessary revisions arising out of the comment/hearing process, the Department will publish a final environmental impact statement. The Department will receive specific recommendations on tentative coal lease tracts for a period of 30 days following publication of the final statement.

Secretary's Decision Process. Prior to a decision by the Secretary to offer a tract for lease, the U.S. Geological Survey will conduct an evaluation of the coal resource within the tentative lease tract. Prior to actual leasing, a determination of fair market value, against which actual bids would be measured, will be completed for each specific lease tract.

A technical examination will also be undertaken to determine whether specific reclamation requirements are needed and to identify tracts requiring special environmental consideration, or special stipulations. The procedures governing this technical examination are found in 43 CFR 3041.2, 3041.2–1.

After completion of the final environmental impact statement, the Director of the Bureau of Land Management will recommend to the Secretary specific lease sales. The Department will receive recommendations for or against leasing of specific tracts for a period of thirty days following publication of the environmental impact statement. Prior to any decision on the proposed lease sales, the Secretary will consult with the affected State governors to consider the specific leasing actions contemplated.

After consultation with the affected governors, the Secretary will decide whether the proposed lease sale or sales should be held. Should the Secretary decide to hold such a sale, a sale notice will be published indicating the precise tracts to be offered and the time and place at which the lease sale will be held. Lease terms and conditions, including rentals, royalties, and reclamation requirements will also be made available at this time. The regulations authorize the use of bidding competition between tracts, when and if the Bureau of Land Management and the U.S. Geological Survey determine it is in the public interest. The Department will complete a policy paper describing intertract bidding and the circumstances in which it may be used.

We are attaching a diagram illustrating the EMARS process as it will be carried out in those areas in which regional environmental impact statements will be prepared.

It should be noted that the steps indicated above are not necessarily sequential. For example, the Bureau has in many cases already begun the Management Framework Plans and, in some instances, the plans are complete and adequate. The Department is also beginning to prepare regional environmental impact statements. However, information obtained from nominations must be considered in conjunction with a completed management Framework Plan, and recommendations arising out of the planning process will be included, as appropriate, in the regional environmental impact statements. All steps must be completed before leasing can occur.

We believe that the changes incorporated in the final rulemaking as well as the description provided in this preamble satisfy the majority of comments received as a result of publishing of the proposed rulemaking. However, additional comments were received concerning acreage limitations, confidentiality of information and bid acceptance.

Section 3520.1–2(d) provides that nominations be limited to 2,560 acres except where a desired logical mining unit (as defined in 43 CFR 3500.0–5(d)) requires acreage greater than 2,560 acres. This limitation is intended to ensure specificity in the nomination in order that comparative resource consideration can be carefully and specifically made. The limitation should discourage blanket nominations. The use of common map type and scale will facilitate comparative analysis of mineralized areas to areas of ecological or environmental importance.

With respect to the confidentiality of information received under the EMARS leasing process, the Freedom of Information Act provides for the withholding of trade secrets, commercial information, and geological and geophysical data. While the areas nominated under EMARS will be made public, supporting information including identification of the nominator, covered by the above exemptions will be withheld, unless permission to disclose is granted by the party submitting the information.

Numerous comments were received regarding the acceptance of a bid. The flexibility to reject a bid is retained in the regulations in the event that the high bidder is determined not to be qualified (43 CFR Part 3502), or in the event that all bids fall below a level determined to be the fair market value or which are not sufficient to win a lease under intertract competition.

All comments received were analyzed and compared with the appropriate sections of the proposed rulemaking and the proposed regulations have been amended to reflect those comments.

On May 17, the Department published as final rulemaking the regulations governing surface mining operations and regulations (43 CFR 3041 and 30 CFR 211). The Department has also published as proposed rulemaking new regulations governing testing for Federally owned minerals. Under these proposed regulations, permits may be obtained by individuals or groups of individuals for se-

curing geologic and environmental data about Federal minerals.

The Department has determined that this proposed amendment will not have a significant inflationary impact. No inflationary impact statement will be issued pursuant to Executive Order 11821 (39 FR 41501) and Office of Management and Budget Circular A-107.

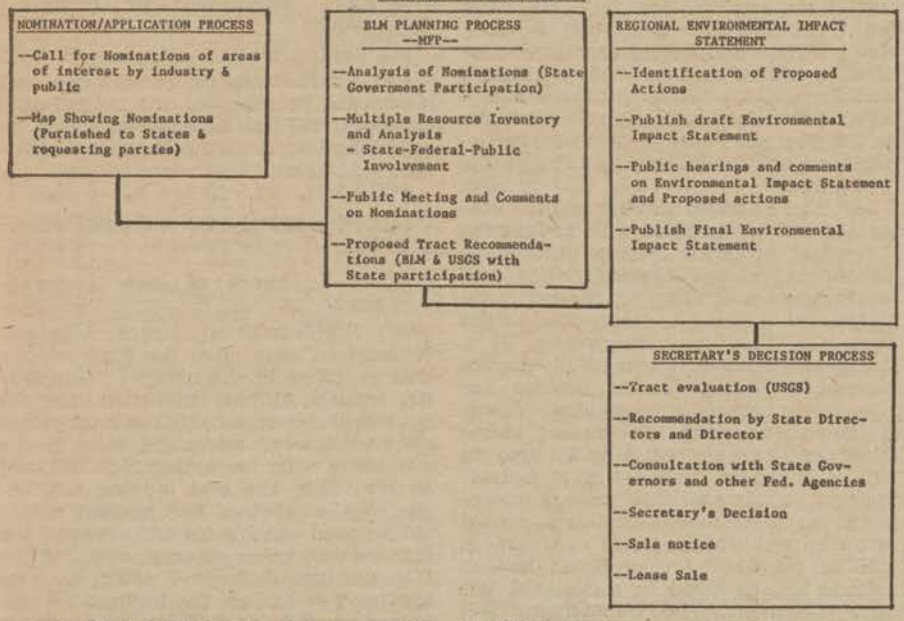
Pursuant to the authority contained in the Mineral Leasing Act of 1920 (30 U.S.C. 181), 43 CFR 3520 is amended as set forth below.

Effective date: June 1, 1976.

Signed at Washington, D.C., on May 24, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

EMARS COAL LEASING PROCESS



1. Section 3520 is amended by adding § 3520.0-4 to read as follows:

§ 3520.0-4 Objectives.

The objectives of the Department's coal leasing process, called Energy Minerals Activity Recommendation System (EMARS), include: the orderly and timely development of Federally-owned coal; appropriate uses of the resources; effective environmental protection; and a fair market return to the public for the resources sold. The program consists of three principal elements: nominations; multiple resource planning; and environmental analysis. Nominations provide the first indication of tracts which should or should not be leased. The nominations received are then compared with resource values through the Bureau's planning process, including Management Framework Plans. From these phases, proposed tract recommendations will be made. Environmental analysis will then be undertaken on the proposed coal lease tracts. The integration of these three elements: nominations, multiple resource planning, and environmental analysis—each of which will be undertaken with State and public participation—will produce specific coal lease recommendations for Secretarial decision.

2. Section 3520.1-2 is renumbered 3520.1-3 and a new section 3520.1-2 is inserted to read:

§ 3520.1-2 Request for information on areas of interest.

(a) *Purpose.* This section establishes a procedure by which industry, the general public, and state and local governments can inform the Department of the Interior of their views on coal leasing in particular areas. The Department will incorporate the information it receives into its internal planning processes for Federal coal leasing tract selections.

(b) *Description of process.* The Director will request information on an annual basis, or as necessary. The Request for Information on Areas of Interest will consist of two stages.

(1) Industry Nominations—nominations from industry of tracts of land that the Department should or should not make available for coal leasing including, as appropriate, statements describing why the tracts should or should not be leased.

(2) Areas of Public Concern—concurrently with Industry Nominations, State and local governments and the general public are requested to submit Areas of Public Concern covering tracts of land that the Department should or should not make available for coal leasing including, as appropriate, statements describing why the tracts should or should not be leased.

(c) *Use of nominations.* Information obtained through the nominations process will be analyzed and compared with multiple resource opportunities identified in the Management Framework Planning process. Proposed coal lease tracts will then be developed on the basis of nominations and multiple resource information.

(d) *Description of nominations.* All nominations or statements of information for or opposed to leasing shall:

(1) (i) Describe the lands by legal subdivisions, section, township, and range; or in the case of land covered only by protracted surveys, by section, township, and range according to an approved protraction diagram; or

(ii) Use the Bureau of Land Management's Surface/Minerals Management Quads (minerals ownership maps) to indicate nominated areas. A readily discernible line on these maps conforming to legal subdivision and section lines will be accepted as to description required in subparagraph (1) (i) of this paragraph. The maps are available for sale at BLM State and most District Offices.

(2) Describe reasonably compact areas, which will be assumed to include all Federal coal within the boundaries described, and shall not exceed 2,560 acres, or the acreage of a proposed logical mining unit, if greater than 2,560 acres.

(e) *Multiple nominations.* If a person submits two or more nominations for leasing or two or more nominations against leasing, choices shall be ranked in order of importance and shall be numbered consecutively. Nominations should be ranked on a nationwide basis.

(f) *Public inspection of records.* Geological and geophysical information and data, including maps, that may be used to calculate coal reserves in place, and trade secrets and commercial and financial information, including the source of nominations for leasing, obtained under this section and identified as privileged or confidential shall not be available for public inspection without the consent of the person submitting the nomination.

(g) *Notice of requests for nominations on areas of interest.* (1) Notice of each Request for Information on Areas of Interest will be published in the FEDERAL REGISTER and in a newspaper(s) of general circulation in the State affected and will specify the area or areas covered by the call, the size and ranking of nominations, the period of time in which to submit nominations, and the addresses to which the nominations are to be submitted. (2) Nominations will be accepted only for those lands that are eligible for coal leasing. Lands not subject to leasing include: (i) lands not subject to the provisions of the Mineral Leasing Act such as lands acquired under the Appalachian Forest Act, and those in incorporated cities, towns and villages and in national parks and monuments (30 U.S.C. 181); (ii) lands withdrawn from coal leasing or otherwise not subject to the provisions of the Mineral Leasing Act; and (iii) land subject to a coal lease, permit, or preference right lease application. (3) As

a matter of policy, the Department does not intend to issue coal leases in National Wildlife Refuges, units of the National Park System, Wilderness Areas and areas designated by the Bureau of Land Management as primitive areas.

(h) Management Framework Plans and multiple land use management plans of other Federal agencies, as appropriate, will be available for inspection at the appropriate Bureau or agency office. Upon the request of the Governor of a State affected by coal lease actions, the Bureau of Land Management State Director will make available for his review the Management Framework Plans for that State and, as appropriate, adjacent States.

3. Section 3520.1–3, renumbered section 3520.1–2, is revised to read:

§ 3520.1–3 Competitive leases: Procedures.

(a) Coal land or deposits shall be divided into suitable leasing tracts and leased competitively. The Energy Minerals Activity Recommendation System (EMARS) shall be used to identify tracts suitable for leasing through nominations and multiple-use land management planning. Under EMARS, the following actions will be taken in the order described in this section except certain steps, such as preparation of Management Framework Plans, may be undertaken simultaneously ad in conjunction with a request for nominations or environmental analysis. However, all steps must be completed before leasing can occur, except where coal leases may be issued under the Department's short-term leasing criteria.

(1) A Management Framework Plan, in accordance with Bureau of Land Management procedures, or the appropriate multiple use land management plan of the surface management agency, will be completed, the land to be leased will be included in a known coal leasing area (KCLA) and a request for nominations will be made pursuant to § 3520.1. The land-use planning process evaluates resource information from Federal agencies and State and local governments and nominations, and identifies areas from which proposed coal lease tracts may be selected. Prior to identifying proposed coal lease tracts, as provided in paragraph (a) (2) of this section, the Bureau of Land Management will hold a meeting to receive public comments on nominations and other resource uses identified in the Management Framework Planning process. Management Framework Plans will be continuously revised or supplemented to include information from nominations, U.S. Geological Survey coal mapping information, and data on reclamation potential from site studies carried out under the Department's Energy Minerals Rehabilitation Inventory and Analysis program.

(2) Proposed tracts will be selected by the Bureau of Land Management, United States Geological Survey field offices, affected State governments and other surface management agencies, if other than the Bureau of Land Management, based upon relevant information, including information from the appropriate land use plan, from nominations, and from competitive coal lease applications on file.

(3) The selection of proposed lease tracts will include, but is not limited to, consideration of such criteria as: Depth, quality, thickness and extent of the coal resource; water resource availability; relationship to existing communities; potential impacts on economic structure (e.g., employment, available services, etc.); service and access corridors; aesthetic qualities such as scenic, cultural, wildlife, and vegetative values; rehabilitation potential and such other criteria as the Secretary may develop for withholding lands from leasing as unsuitable for mining.

(4) The National Environmental Policy Act will be complied with as follows: If several proposed leasing units have significant related characteristics and would sustain similar or related environmental impacts, as determined by the Secretary, they may be covered by a single regional environmental impact statement. Where leasing actions are adequately covered in a regional impact statement, no additional impact statement need be prepared. A public hearing will be held after publication of a draft regional environmental impact statement. An environmental analysis record or an impact statement, as appropriate, will be prepared for proposed leasing actions not included in a regional impact statement. The Department will provide public notice and an opportunity for a public meeting on an environmental analysis record for a coal leasing proposal that indicates that an environmental impact statement is not required.

(5) A technical examination in accordance with the procedures in 43 CFR 3041.2 and 3041.2–1 will be completed on each unit to identify specific reclamation requirements and tracts requiring special environmental consideration and to prepare bonding requirements and stipulations to minimize impacts upon the environment and other resources, land uses, or programs. Reclamation requirements will be imposed in accordance with 43 CFR 3041. The technical examination will include an evaluation of the proposed leasing unit to balance the value of the coal against the cost of mining, the cost of mitigation of environmental damage, and the significance of unmitigatable environmental damages.

(6) The State Director, after State government and surface management agency consultation, will recommend suitable tentative coal lease tracts to the Director. The Director will consolidate approved field recommendations into a proposed Coal Lease Sale Schedule for review and approval by the Secretary. Prior to the Secretary's approval, the Secretary wil consult with the Governor of the State affected by the lease sale and the Secretary of Agriculture, where appropriate.

(7) Notice of sale or sale schedules shall be published in the FEDERAL REGISTER and in a newspaper of general circulation in the State affected.

(8) A presale evaluation of the resource in the tentative coal lease tract shall be conducted.

(9) After the sale, a post-sale evaluation of the bids shall be conducted.

4. Section 3521.2–1(a)(1) is amended by adding subparagraph (vi) to read as follows:

§ 3521.2–1 Application or Bureau—motion.

(a) *Application—(1) Forms—(i)* * * *

(vi) Applications for competitive coal leases will be accepted for information purposes, but all leasing units will be established in accordance with § 3520.-1–2.

* * * * *

5. Section 3521.2–5(a) is revised to read as follows:

§ 3521.2–5 Award of lease (competitive).

(a) *Notification of Award.* Bids will be received only until the hour on the date specified in the notice of competitive leasing. All bids submitted after the hour will be rejected. The authorized officer will read all sealed bids. If the procedure calls for sealed bids followed by oral bids, the oral bidding will begin at the level of the highest sealed bid received which must at least equal the fair market value determination of the U.S. Geological Survey. After the oral bidding has ceased, the highest bid will be announced. No decision to accept or reject the high bid will be made at this time. The sale will be adjourned and the sale panel will convene to determine if the high bid adequately reflects fair market value. The recommendations of the panel will be sent to the authorized officer who will make the final decision to accept a bid or reject all bids, as soon as possible, after the sale date. The successful bidder will begin to be notified in writing. The Department reserves the right to reject any and all bids.

(b) The use of bidding competition between tracts (intertract bidding) is hereby authorized when and if the Bureau of Land Management and the U.S. Geological Survey determine it is needed in the public interest. The authorization to utilize intertract competition does not preclude the use of any other form of competitive bidding procedure.

[FR Doc.76–15564 Filed 5–28–76;8:45 am]

Title 45—Public Welfare

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

MEDICAL ASSISTANCE PROGRAMS

Inpatient Psychiatric Hospital Services for Individuals Under 21; Corrections

Final regulations with respect to inpatient psychiatric services for individuals under age 21, furnished under the Medical Assistance Program (Medicaid), Title XIX of the Social Security Act,

were published in the FEDERAL REGISTER on January 14, 1976 (41 FR 2198). They implemented section 1905(a)(16) of the Act, added by section 299B of the Social Security amendments of 1972. A major provision of the final regulations was inclusion of qualified psychiatric "facilities" as providers of this service rather than only psychiatric "hospitals." A similar change needs to be made in other areas of that regulation and in other Medicaid regulations, where reference is made to services under section 1905(a)(16). Accordingly, the purpose of the amendments set forth below is to make the appropriate changes. The basis for the corrections is the need to conform technical references in various regulations to the governing terminology contained in the January 14, regulations.

Chapter II, Title 45, Code of Federal Regulations is amended as set forth below.

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

1. Part 248 is amended by revising § 248.1(c)(iv) to read as follows:

§ 248.1 State plan requirements and options for coverage under the medical assistance program.

* * * * *

(c) *Options for coverage of categorically needy.* * * *

(iv) All individuals under 21 who qualify on the basis of financial eligibility, but do not qualify as dependent children under a State's AFDC plan; or groups of such individuals if based on reasonable classifications. Children in foster homes or private institutions, or in subsidized adoptions, for whom public agencies are assuming financial responsibility, in whole or in part, constitute a reasonable classification. The additional inclusion of children placed in foster homes or private institutions by private, nonprofit agencies would also be considered reasonable. Individuals under age 21 who are in intermediate care facilities or in psychiatric facilities, also constitute a reasonable classification.

* * * * *

2. Section 248.10(b)(2)(iv) is revised as follows.

§ 248.10 Coverage and conditions of eligibility for medical assistance.

* * * * *

(b) *State plan requirements.* * * *

(2) * * *

(iv) All individuals under 21 who qualify on the basis of financial eligibility, but do not qualify as dependent children under a State's AFDC plan; or groups of such individuals if based on reasonable classifications. Children in foster homes or private institutions, or in subsidized adoptions, for whom public agencies are assuming financial responsibility, in whole or in part, constitute a reasonable classification. The additional inclusion of children placed in foster homes or private institutions by private, nonprofit agencies would also be considered reasonable. Individuals under age 21 who are in intermediate care facilities or in psychiatric facilities, also constitute a reasonable classification.

* * * * *

3. Section 248.60 is amended by revising paragraphs (a)(2) and (a)(3)(iv) as follows.

§ 248.60 Institutional status.

(a) *Federal financial participation.* * * *

(2) Federal financial participation under title XIX of the Social Security Act is not available in medical assistance for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases, except for an individual under age 22 who is receiving inpatient psychiatric facility services pursuant to § 249.10(b)(16) of this chapter.

(3) * * *

(iv) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in such institution except that such an individual under age 22 who was previously receiving inpatient psychiatric facility services pursuant to § 249.10(b)(16) of this chapter may be considered to be a patient in such institution until he is unconditionally released or, if earlier, the date such individual attains age 22.

* * * * *

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

4. Section 249.10(a)(6)(iii) is revised to read as follows:

§ 249.10 Amount, duration and scope of medical assistance.

(a) *State plan requirements.* * * *

(6) * * *

(iii) Inpatient psychiatric facility services as provided in section 1905(a)(16) of the act may be limited to individuals under age 21 (or under age 22 for individuals receiving such services immediately prior to attaining age 21), as specified in section 1905(a)(16) of the act and paragraph (b)(16) of this section;

* * * * *

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

5. Section 250.23 is amended by revising paragraphs (a)(1), (a)(1)(i) and (iv) to read as follows:

§ 250.23 Periodic medical review and inspections in skilled nursing facilities and institutions for mental diseases.

(a) *State plan requirements; medical review.* * * *

(1) Provide, with respect to patients eligible under the State plan who are admitted to a skilled nursing facility or who make application while in such a facility, for a medical review (including medical evaluation) of the need for care in such a facility, a written plan of care and, where applicable, a plan of rehabilitation; and if the State plan includes medical assistance in behalf of individuals 65 years of age or older, in institutions for mental diseases or under age 21 in psychiatric facilities, provide, with respect to patients eligible under the State plan who are admitted to or make application while in a mental hospital or psychiatric facility, for a medical review (including medical evaluation) of the need for such care, and a written plan of care. Such a review and plans would be made by the patient's attending physician with respect to care in skilled nursing facilities, and by the attending physician or staff physician with respect to care in mental hospitals, for individuals age 65 or over. In the case of individuals under age 21 who are admitted to psychiatric facilities, the review must be made by a team in accordance with § 249.10(b)(16)(iii), and the plan of care must be made by a team as specified in § 249.10(b)(16)(v). Provisions required by this subparagraph shall include descriptions of methods and procedures to be followed in each case which assure that prior to admission or prior to authorization of payments, as may be appropriate:

(i) Each patient receives a complete medical evaluation which includes diagnoses, summary of present medical findings, medical history, mental and physical functional capacity, prognosis and an explicit recommendation by the physician with respect to admission to, or, in the case of persons who make application while inpatients in a skilled nursing facility or mental hospital, or such psychiatric facility, continued care in such skilled nursing facility or mental hospital or such psychiatric facility;

* * * * *

(iv) In the case of patients over 65 in mental hospitals or in skilled nursing facilities which are institutions for mental diseases or patients under 21 in psychiatric facilities, the evaluation also includes psychiatric and social evaluations which are entered in the patient's record at the time of admission or immediately upon completion:

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: May 25, 1976.

THOMAS S. MCFEE,
Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.76-15848 Filed 5-28-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20588; FCC 76-473]

PART 73—RADIO BROADCAST SERVICES

Logging of Promotional Announcements

In the matter of amendment of note 3 of §§ 73.112, 73.282, and 73.670 of the Commission's rules concerning the logging of promotional announcements.

By the Commission: Commissioner Hooks concurring in the result; Commissioner Robinson concurring in part and

dissenting in part and issuing a statement.

1. This proceeding was initiated by a Notice of Inquiry and Notice of Proposed Rule Making (Notice) adopted September 5, 1975 (FCC 75-1008). The closing dates for the filing of comments and reply comments were October 22, 1975 and November 3, 1975, respectively, which were extended by subsequent Order to November 24, 1975, for comments, and December 19, 1975, for reply comments. Publication was made in the Federal Register on September 22, 1975 (40 FR 43514) and on October 30, 1975 (40 FR 50546).

2. The Commission's current interest in the questions involved in this proceeding was generated by a letter of inquiry written on behalf of Broadcasters Promotion Association, Inc. by A. Lee Pocock, a member of the Board of Directors of that Association. In substance, Mr. Pocock stated that in the 400 member Association there appeared "to be a great deal of confusion as to how a promotion is logged when it is a cross-plug effort for a sister station." An example was given of the case where an AM or FM station broadcasts for its sister television station (licensed to the same entity which is the licensee of the AM or FM station) an announcement such as "tonight be sure and watch the Channel 7 News followed at 8 by Mannix, where Mannix defends his brother-in-law against a pending threat to his life, and at 9:30 'I Love Lucy,' where Lucy falls in love with the barber . . ." Typically, such announcements do not mention the name of a sponsor other than the call letters and/or channel or frequency assignment of the station being promoted.

3. As stated in the Notices of this proceeding, the Commission might have issued an interpretative ruling forthwith, but by reason of the novelty of the question and the fact that established industry practices might be in conflict with the ruling, the Commission determined that the present proceeding would be more appropriate.

A. The Questions Presented

4. Briefly stated, this proceeding raised two questions for comment: (1) Whether announcements cross-plugging various broadcast stations, radio and/or television, located in the same market and owned by the same licensee (sister-station announcements), should be logged as commercial announcements; and (2) whether announcements of self-promotion by a single station (same-station announcements), should be reclassified as commercial announcements.[1]

B. Sister-Station Promotional Announcements

5. We have chosen to present several comments which we believe are generally representative of those received in favor of or opposed to a requirement that sister-station promotional announcements be logged and counted as commercial matter. Some comments took neither side on the issue, but raised procedural questions or offered counsel for resolution of the matter; such comments are also presented. The National Radio Broadcasters Association (NRBA) states that it is comprised of over 500 broadcast licensees in the United States and that it finds merit in the Commission's proposal. NRBA states that the principle underlying the Commission's policy against use of broadcast facilities unfairly to promote a licensee's nonbroadcast business should be equally applicable to the use of a broadcast interest to promote another separable broadcast interest of the licensee in the same market; the contention is that such a disposition will serve to minimize the anticompetitive effects of common ownership.[2] Gateway Communications, Inc., the licensee of four television stations, states that it presently enters into trade-outs with other stations for promotional announcements and classifies such announcements as commercial, and believes that its commonly owned competitors should be required to do no less. It further states that in two areas served by its stations, it is in competition with commonly owned AM–FM–TV combinations which are not restricted in any way from cross-plugging. Westinghouse Broadcasting Company, Inc. is in agreement with the Commission's tentative proposal. It states that there is no persuasive reason to differentiate between announcements broadcast on behalf of other stations in the same market area promoting their programming activities simply because the stations are licensed to the same entity.[3] Westinghouse is the licensee of multiple services in that same community. By joint comment, WAVI Broadcasting Corporation, Mooney Broadcasting Corporation, and Capitol Broadcasting Co. (all licensees of multiple services in a community) submit the view that promotions for sister stations should be logged as commercial in light of the unfair advantage that such stations enjoy over those stations that are not commonly owned. It is said that such sister stations may unleash a barrage of announcements, each supporting the other commonly owned facility, which a competitor could not afford to offset. A further statement is made in regard to rating periods to the effect that sister stations enjoy an automatic advantage when both stations are being promoted in different services, causing the viewer or listener to confuse the origination of the program and thus credit a station with viewing or listening even though it is not the station tuned. This comment states that although the adoption of the Commission's tentative proposal will do no more than effectively place strictures on the number of such announcements, it would nevertheless lessen anticompetitive, unfair practices which allegedly would flow from unrestrained utilization of cross-promotional announcements. The comments of KCOP Television, Inc., the holder of one broadcast license in the highly competitive Los Angeles market, may be summarized in the statement that, in view of the already powerful competitive advantages which stem from common ownership of more than one station in a single market, the Commission should not permit a practice (not logging sister-station promotions as commercial) to continue which does nothing more than implement and aggrevate this competitive advantage.

6. It is of interest to note that six multiple station licensees have made it a practice to log promotional announcements for their sister stations as commercial announcements. American Broadcasting Companies, Inc., CBS, Inc., Metromedia, Inc., NBC, Inc., Nationwide Communications, Inc., and Storer Broadcasting Company. However, their practices are not in each case consonant with their comments on the merits of the Commission's suggestion regarding sister-station announcements. While ABC, Metromedia, and Nationwide believe that sister-station promotional announcements should be logged as commercial announcements, CBS and NBC do not support this position. Their views are best expressed by excerpts from their comments. NBC states:

> However, certain elements being considered in the Notice are less objectionable than others. The least objectionable proposal is that which would require that promotional announcements by a TV station on behalf of a commonly-owned AM or FM station (or vice versa) be logged and counted as commercial announcements. Such a procedure would actually be consistent with NBC's current practice pursuant to which such announcements are treated as ordinary commercials for logging purposes. [footnote omitted] However, NBC does not believe that because it already follows the practice the Commission proposes to adopt, that fact has caused it to carry fewer such announcements than it otherwise would have done. In other words, the supposed inhibition of logging and counting these announcements as "commercial matter" has not affected its policies and practices in the carrying of such announcements. Therefore, judging by our own experience, there seems little or no purpose or logic in Commission intrusion into a new area of regulation. NBC thus objects to a requirement to log as commercial all announcements made by a station promoting its own programming or that of its commonly owned stations.

Additionally, NBC goes on to state that the proposal would have a counter-productive effect on smaller stations. CBS states:

> Despite the fact that CBS practices are already in accord with the logging rule proposed by the Commission, CBS questions the need to impose such a rule. Although the Commission has indicated that the practice of broadcasting promotional announcements on behalf of sister stations 'is not uncommon', CBS believes, absent a showing of

[1] A list of the parties who field comments is attached as Appendix A.

[2] NRBA would also have the Commission act to prohibit discrimination against announcements sought by a station not commonly owned, which is a matter not within the purview of this proceeding.

[3] Westinghouse would exempt announcements made during periods of simulcasting.

abuse or anticompetitive effect, that stations should be able to log announcements for sister stations as 'promotional announcements,' if so desired.

Storer (a licensee of multiple services in the same community) expresses no objection to the proposal that promotional announcements for sister stations be logged as commercial and that such an interpretation be codified in Note 3 to Sections 73.112, 73.282, and 73.670 of the Commission's Rules. However, Storer indicates that such action seems unnecessary in that the matter lacks substance and import.

7. General Electric (GE) Broadcasting Company, Inc. states that it is its understanding that presently sister-station promotional announcements need not be logged as commercial and that it is not aware that this approach has been harmful in the sense that it has resulted in either unfair competitive advantage or excess promotion. It questions the need for this regulatory proposal, but has no objection to a requirement that such announcements be logged as commercial. It acknowledges the Commission's policy that announcements promoting a nonbroadcast business of a licensee must be logged as commercial, even in the absence of "consideration," and states that the Commission's proposal is an extension of that concept. In several cities, GE is the licensee of stations in different broadcast services serving the same community and does, from time to time, promote its sister stations. Other licensees in the same position as GE follow the same practice and express the same view. Heart O' Wisconsin Broadcasters, Inc., by common ownership or control is affiliated with entities having more than one broadcast service in the same community. It takes the position that there is no objection to classifying sister-station promotional announcements as commercial as between visual and aural media, but not so in the case of promotions between commonly owned AM and FM stations. It states that the Commission has encouraged such stations to offer real program diversity within the context of common ownership, so that, in the case of many stations, the AM format and programming is different from and complements the format and programming of the FM station. The contention is that it makes no sense to penalize these stations for informing the public of this diverse and complementary programming.

8. Haley, Bader & Potts filed comments reflecting the views of many of its broadcast clients. Prefatorily, the firm states that regulatory action should not be taken which appreciably increases governmental intrusion into the everyday business affairs of licensees and augments the burden of licensees. Its view is that the proposal is an unnecessary burden on licensees and reflects a willingness to engage in such governmental intrusion. The comments question the interest which the Commission "ostensibly seeks to protect" in this proceeding, stating that if the Commission's concern is with the competitive advantage of a single station in not being able to promote itself free of charge on another facility, then the Commission is posting itself as the arbiter of competitive parity in a free enterprise system of commercial broadcasting. It is contended that for the Commission to decide this matter with reference to other "advantages" of commonly owned stations, it would be regulating on a scale of benefits, which it characterizes as "not responsible regulation." Additionally, the view is expressed that even if the Commission could conclude that there would be consideration in the benefit received by a station airing a reciprocal promotional announcement, the determination would be fraught with difficult questions as to what is reciprocal; that is, whether reciprocity need be established by one agreement, one transaction, or by many transactions at different times. It is contended that there would then be added the remaining problem of dealing with arrangements between sister stations where there would be no reciprocity.

9. Greater Media, Inc. believes that present definitional standards should be continued. Its view is that if any promotional announcements are to be classified as commercial, most, if not all, stations will curtail promotional announcements rather than suffer curtailment of revenue. It admits that commonly owned stations in the same market often enjoy substantial advantages over individual stations and that the competitive disparities are enormous. However, it adds that the net advantages derive from cross-promotion are "miniscule" in comparison with the other competitive disparities built into the broadcast industry, as might be found in differences in power, frequencies, and factors bearing upon economic strength. It requests that the Commission take no action in this proceeding and that the proceeding be terminated. Sonderling Broadcasting Corporation (Sonderling) sees no reason for the commencement of this proceeding and, in substance, states that it is contrary to policies of "deregulation." A substantial number of comments expressed similar views to the effect that a need should be demonstrated for any change in existing practices to support a finding of public interest and that in the absence of such a showing any change would be inconsistent with deregulation. In this connection, several of the comments stated that this proceeding should be confined to an inquiry as to the existence of such need.

10. Dow, Lohnes & Albertson filed comments on behalf of several licensees in the form of joint comments.[4] The comments state that this proceeding is premature, and that the underlying question is whether a need exists for a departure from past policy, that is, the need to limit the use of sister-station announcements. The suggestion is that the Commission should first decide this policy question, and then, if answered in the affirmative, specific proposals should be formulated and put out for comment as proposed rules. The Commission is urged not to attempt to fit such a change within the present definition of a commercial announcement contained in Note 3 of the Rules on program logs. In substance, it is stated that under traditional concepts of "consideration" this cannot be done and that the existence of "consideration" should not be assumed simply because a benefit is received. It is acknowledged that some confusion exists on how sister-station announcements should be logged and that there is a desire for clarification. The parties to these comments, in opposing a requirement that the sister-station announcements be classified as commercial, call the Commission's attention to a multitude of factors, such as (1) there has been a conscious and long-standing Commission recognition that promotional announcements are not comparable to conventional commercial announcements; (2) promotional announcements are presently regulated by the forces of a free market, where programming must be attractive to the public to sustain listening or viewing; (3) television stations have only a few "windows" to promote programming, while radio has more but is also much more competitive; (4) these announcements serve a valuable purpose in informing the public of important news and public affairs programming and in assisting struggling UHF and FM stations, as well as second or new services in a community; (5) licensees would be forced to reduce promotional announcements to retain income-producing commercial inventory; and (6) there is no evidence that the use of sister-station announcements has been abused or adversely affects other broadcast operations and should such abuse arise, then the Commission can deal with it under the public interest standard on a case-by-case basis.

C. Discussion

11. The Commission notes the following facts which were adduced by the inquiry: (1) Industry practice is not consistent as to the logging of sister-station announcements.

(2) A considerable number of stations operating in highly competitive markets with above average time charges are, and have been, logging sister-station announcements as commercial matter.

(3) The consensus of the commenting parties was not in opposition to a requirement that the announcements be logged as commercial matter.

12. The NBC comment is of particular interest. NBC, Inc. is the licensee of multiple broadcast services in New York City, Chicago, San Francisco, and Washington, D.C. It has been following the practice of logging sister-station announcements as commercial matter and states that this practice has not caused it to carry fewer such announcements than it otherwise would have done. However, several other comments were to the effect that the number of sister-station announcements would be seri-

[4] Cox Broadcasting Corporation, Multimedia, Inc., WCSC, Inc., Turner Broadcasting Corporation, Palladium Publishing Company, Plough Broadcasting Company, Inc., Belton Broadcasters, Inc., Big C. Broadcasting Corporation, Metro Broadcasting Corporation, and Providence Journal Company.

ously curtailed. The Commission believes that the commercial classification may have some restraining effect on some licensees in limited areas of the broadcast week. It may be expected that to that extent the anticompetitive effect which would flow from the unrestrained utilization of cross-promotional announcements would be lessened.

13. The most common objection to the logging of cross-promotions as commercial matter was that no evidence was presented of the need for such a determination. In the absence of such evidence the comments were either in the form of recommending termination of the proceeding, or that the proceeding be limited to the determination of such need, or that, if the need did exist in certain circumstances, the matter be handled on a case-by-case basis. When this matter of the lack of necessity was presented, the comments alleged lack of evidence indicating a public outcry against the abusive use of such announcements or lack of evidence indicating that such broadcasts were harmful to other broadcast interests. However, the comments themselves have furnished substantial evidence that licensees operating one service in a community have felt the harmful effects of unfettered use of sister-station announcements.

14. The commenting parties which were most forcefully in favor of the requirement that sister-station announcements be logged as commercial called attention to the Commission's policy that announcements promoting a licensee's non-broadcast business are required to be logged as commercial. This policy has been expressed in *Waterman Broadcasting Corporation of Texas*, 28 FCC 2d 348, 21 RR 2d 555 (1970); *Fuqua Communications, Inc.*, 30 FCC 2d 94, 22 RR 2d 173 (1971); *Carolinas Advertising, Incorporated*, 42 FCC 2d 1027, 28 RR 2d 659 (1973); and *In re Anthony R. Martin-Trigona*, 17 RR 2d 1104 (1969). These parties acknowledged that the policy and its application in the foregoing cases involevd the promotion of non-broadcast businesses of a licensee, not the promotion of a broadcast interest owned by the licensee. However, they feel that there is no justifiable basis for a differentiation between a non-broadcast interest and a broadcast interest. The contention is that the same type of advantage accrues to an AM station, for example, whether the station is promoting another commercial enterprise or a sister FM station. The use of the license in either case may confer a substantial benefit upon the sister station equal in effect to that conferred upon another type of commercial enterprise of the licensee. As against other licensees licensed only for the service being promoted, these parties see an unfair competitive advantage. They take the position that logging sister-station announcements as commercial will limit the competitive advantage possessed by competing multiple owners.[5]

[5] As to the Commission's views on the advantages of multiple owners, see *In re AM, FM and TV Broadcasting Stations*, 58 FCC 2d 189, 191 (1976).

15. We are of the opinion that the licensee of sister stations realizes a substantial benefit and advantage in the use of cross promotions that is not available to the licensee of a single station in a community. The principle of nurturing full competition underlies many established policies of the Commission which were adopted to advance the public interest. In making the determination that these sister-station promotional announcements should be logged as commercial matter, we follow the suggestion of several of the comments that we need not be strapped by the traditional concepts of consideration. On this basis, the matter of reciprocity need not be considered; the same result occurs whether there is an exchange of cross promotions between the separable interests or whether one interest simply promotes the other. The comments received in this proceeding disclose sufficient need for the determination that sister-station promotional announcements should be logged as commercial matter.

16. While Westinghouse indicated agreement with the suggestion that sister-station promotions be logged as commercial matter, it stated that such announcements made during periods of simulcasting should not be so classified. However, no reasons for such exclusion were cited. We believe that such announcements made during simulcasting deserve special treatment. Several situations are presented which, we believe, are typical of station promotion during simulcasting. In the case of simulcasts by a daytime AM station and its sister FM station, the AM listening audience is told to switch to the FM frequency when the AM operation ceases. Another situation involves the broadcast, during simulcasting, of an announcement informing listeners to tune to a future program either on the AM frequency or the FM frequency, where the future program will not be simulcast. If the future program is to be broadcast by the AM station only, then the announcement transmitted on the FM frequency is a promotion for the sister AM station. If the future program is to be broadcast by the FM station only, then the announcement broadcast on the AM frequency is a promotion made for the sister FM station. We are unable to see any valid grounds for treating the foregoing situations differently from the situation where announcements are made by sister stations promoting the other station during separate operations. In the first situation above-described the AM station should enter the announcement in its program log as commercial matter; in the second situation, the entry should be made in the FM log; and in the third, in the AM log. A different type of situation exists when the future program will be broadcast on both the AM frequency and the FM frequency. In this situation we believe that the announcement is a same-station type of promotion. As such, it is not commercial matter and need not be logged.

D. Conclusion

17. As hereinabove discussed and for the reasons we have outlined, we have determined to amend Part 73 of our rules to require that promotional announcements broadcast by any TV, AM, or FM broadcast station for or on behalf of another commonly owned or controlled broadcast station serving the same community shall be entered as a commercial announcement in the program log of the station broadcasting the announcement. This requirement shall not be applicable to educational stations. In the case of simulcasting, if the announcement relates to future programming which is not to be simulcast, the announcement shall be entered as commercial matter in the log of the station not scheduled to broadcast the future programming. The specific texts of the amendments effecting this determination are set forth below.

E. Same-Station Promotional Announcements

18. All comments opposed classifying same-station promotional announcements as commercial matter. We are persuaded not to change our rules in this area, primarily because the informational value of such announcements outweighs any detriment that may flow from their excessive use and because practices which may adversely affect competition are not involved.

19. Accordingly, it is ordered, effective July 2, 1976, That Part 73 of the Rules and Regulations is amended below.

20. Authority for this rule amendment is found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

21. It is further ordered, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,[6]
VINCENT J. MULLINS,
Secretary.

Adopted: May 19, 1976.

Released: May 25, 1976.

Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Note 3 of §§ 73.112, 73.282 and 73.670 (introductory paragraph) is amended and a new paragraph (c) is added to read as follows:

§ 73.___ Program log.

* * * * *

NOTE 3. *Definition of commercial matter* (CM) includes commercial continuity (network and nonnetwork), commercial announcements (network and nonnetwork), and announcements described in paragraph (c) of this Note, as follows: (Distinction between continuity and announcements is made only for definition purposes. There is no need to distinguish the two types of commercial matters when logging.)

* * * * *

(c) Promotional announcements broadcast by any AM, FM or TV broadcast station for or on behalf of another

[6] Statement of Commissioner Robinson filed as part of the original document in the Office of the Federal Register.

commonly owned or controlled broadcast station serving the same community.

* * * * *

APPENDIX A—PARTIES FILING COMMENTS

Station KTLQ
Stations KPRL and KPRA
Sonderling Broadcasting Corporation
Gateway Communications, Inc.
Southern Broadcasting Company
Central California Communications Corporation
Adelphi University
Station KRE and KRE–FM
Station KPOW
Carthage Broadcasting Company
Tape Networks, Inc.
Station WYCL
Nebraska Broadcasters Association
Haley, Bader & Potts
CBS, Inc.
National Association of Broadcasters
Bonneville International Corporation
KQED, Inc.
The Corinthian Stations
The Orion Stations
The Donrey Stations
National Radio Broadcasters Association
National Broadcasting Company, Inc.
Greater Media, Inc.
Combined Communications Corporation
Combined Communications Corporation of Oklahoma, Inc.
Combined Communications Corporation of Kentucky, Inc.
Pacific and Southern Company, Inc.
Eleven-Fifty Corp.
The Evening News Association
Universal Communications Corporation
Gaylord Broadcasting Company
WTVY, Inc.
Storer Broadcasting Company
Lotus Communications Corp.
Heart O'Wisconsin Broadcasters, Inc.
American Broadcasting Companies, Inc.
Mooney Broadcasting Corporation
WAVI Broadcasting Corporation
Capitol Broadcasting Co.
Strafford Broadcasting Corporation
Hercules Broadcasting Company
Guaranty Broadcasting Corporation
Summit Radio Corporation
Group One Broadcasting Co. of Texas
Group One Broadcasting Co.-West
Community Broadcasters, Inc.
Broad Street Communications Corporation
Guy Gannett Broadcasting Services
Mid-America Television Company, Inc.
The WHYN Stations Corporation
WINZ, Inc.
RadiOhio, Inc.
State Telecasting Company, Inc.
North Carolina Association of Broadcasters
Palmer Broadcasting Company
Cox Broadcasting Corporation
Multimedia, Inc.
The Palladium Publishing Company
Plough Broadcasting Company
WCSC, Inc.
Turner Broadcasting Corporation
Belton Broadcasters, Inc.
Big C Broadcasting Corporation
Metro Broadcasting Corporation
Public Broadcasting Service
Metromedia, Inc.
General Electric Broadcasting Company, Inc.
Westinghouse Broadcasting Company, Inc.
Newhouse Broadcasting Corporation
KCOP Television, Inc.
Nationwide Communications, Inc.
McGraw-Hill Broadcasting Company, Inc.
Providence Journal Company
Missouri Broadcasters Association
Wycom Corporation
Bloomington Broadcasting Corporation (Reply Comment)

[FR Doc.76–15831 Filed 5–28–76;8:45 am]

[FCC 76–454, Docket No. 19544; RM–1838]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Inquiry Into Problems of Public Coast Radiotelegraph Stations; Memorandum Opinion and Order

By the Commission: Commissioners Wiley, Chairman; and Reid concurring in the result; Commissioner Robinson dissenting and issuing a statement.

1. This proceeding was instituted by a Notice of Inquiry on July 12, 1972, to which three extensions of time were granted to file comments and reply comments. An Order and an Erratum were also released. Subsequently, a Second Notice of Inquiry was released to which one extension of time was granted to file comments and reply comments. References to these documents are as follows:

FCC document	Release date	Published in FEDERAL REGISTER	FEDERAL REGISTER reference
Notice of inquiry.	July 20, 1972	July 28, 1972	37 F.R. 15197
Extension of time.	Oct. 19, 1972	Oct. 28, 1972	37 F.R. 23126
Extension of time.	Dec. 1, 1972	Dec. 8, 1972	37 F.R. 26150
Order	Dec. 18, 1972	Dec. 21, 1972	37 F.R. 28138
Erratum	Jan. 2, 1973	Jan. 15, 1973	38 F.R. 1505
Extension of time.	Jan. 22, 1973	Jan. 31, 1973	38 F.R. 3003
2d notice of inquiry.	Mar. 8, 1974	Mar. 19, 1974	39 F.R. 10284
Extension of time.	Apr. 17, 1974	Apr. 23, 1974	39 F.R. 14377

2. Persons filing comments in this proceeding are set forth in the attached Appendix 1. These comments include the views of one or more persons from the various user groups employing or requiring service from public coast radiotelegraph stations. In addition to the extensive information set forth in the comments filed, the Commission during 1974 conducted inspection of RCA Global Communications, Inc. (RCA) stations WPA, WSC, KPH, WOE and WCC; ITT World Communications, Inc. (ITT) stations KLC, WSL, KFC, KOK and KLS; and TRT Telecommunications Corporation (TRT) stations WAX and WNU. To afford opportunity for maximum exposure, the Commission contracted with Advanced Technology Systems, Inc. (ATS) to: (1) contact the licensees of public coast radiotelegraph stations for further information, where needed; and (2) review and report on the comments filed, plus whatever additional information was obtained from those licensees. Thereafter, the Commission released its Second Notice of Inquiry, in which we requested additional information. To that Second Notice we attached the ATS report for study and comment. Lastly, on November 12, 1974, a meeting was convened on various aspects of this matter. In consequence of this meeting, definitive comments were filed by a substantial number of users and licensees regarding various matters pertinent to this proceeding.

Overview

3. The proceedings in this docket were initiated for the reasons stated in the July 1972 Notice of Inquiry with the expectation that an in-depth review of the total complex of public radiotelegraph coast station operations and related matters would provide a more firm basis upon which the Commission could address overall remedies to apparent economic, operational, and technical problems associated with public radiotelegraph coast stations and act upon the pending applications for closure of certain of those stations. An important factor highlighted during this proceeding is that the users perceive a need for a minimum number of coast stations to furnish the long range high frequency (HF) service but for an adequate number of coast stations to assure coverage in the medium range medium frequency (MF) service. While much time and effort has been expended by all parties to this proceeding and a record has been assembled representing the most complete study of this segment of the industry completed to date, the actions we will take herein will not by themselves resolve the host of complex problems confronting both the users of the service and the licensees providing the service. Our endeavor here is to discuss those areas which we believe most contribute to those problems and reach conclusions which will provide a basis to proceed with the steps toward improvement. Many of the measures we will prescribe cannot be accomplished independently of each other, but will require the development of a structured program by each of the licensees with definitive milestones established to implement an overall plan. While we are unable to make the required statutory findings required to authorize any of the pending closure applications, we are of the opinion that with the dedication and cooperation of the licensees and the users, a program may be developed by each of the licensees that will serve as the basis to reevaluate the need for a specific number of coast stations while improving service. Towards this goal we will terminate the proceedings in this docket, but in so doing we direct the Chief, Safety and Special Radio Services Bureau and Chief, Common Carrier Bureau to work with the licensees and the users in carrying out the measures prescribed herein. Where immediate action can be taken and is so ordered herein, we of course expect the licensees to proceed expeditiously and will require that they report to the staff the progress being made on a regular basis. While the problems are complex and the solutions are not simple, we believe the course prescribed herein will serve the best interest of the public and enhance the ability of the licensees to perform their duty to the public.

4. Many of the measures we prescribe are directed primarily to the International Record Carriers (IRC's), RCA, ITT and TRT, who are also licensees of

radiotelegraph coast stations and collectively handle approximately 95 per cent of the total maritime mobile telegraphy traffic. There is presently no substitute for the essential services provided by these carriers and the using public is dependent upon this service for the conduct of its business and social communication requirements. While our major effort must be directed towards those operations effecting the vast majority of the using public, we believe that steps must be taken at the same time to ensure that the total facilities available to the public can be utilized on an efficient and convenient basis at reasonable charges. As we will discuss in greater detail below, it is our opinion that arrangements exist which hinder the user's ability to make maximum use of the facilities available. We propose to institute arrangements which will provide the user with greater flexibility and opportunity to use the total communication facilities and services now available on a more convenient basis. We will therefore prescribe necessary interconnection arrangements and require that those arrangements be included in the licensees overall plan for improvement and, in our view, such arrangements are vital to the consideration of the closure of any existing public coast station licensed to the IRC's now providing the bulk of the service to the public.

5. Although the measures we prescribe as being necessary are directed predominantly towards the IRC's operations, they also affect the independent coast station licensees and the provisions required under our rules, i.e., requirements for type acceptance of equipment in part 81.137(d) of the rules is equally applicable to the independent coast station licensees.

Previous Actions

6. During the course of this proceeding the Commission has taken separate actions which are directly related to the consideration of this docket. By Order released December 18, 1972, the Commission amended Section 81.137(d), Part 81, to suspend the applicability of the provisions of that section to certain transmitters at public coast radiotelegraph stations pending release of a further order, based on information derived from the instant proceeding. This suspension of Section 81.137(d) was responsive to the request of RCA, dated July 26, 1972; that Section 81.137(d) be waived until eight months after conclusion of the instant proceeding which includes applications of RCA, among others, to close certain of their stations. It was RCA's view, in which we concurred, that the transmitters at stations proposed to be closed should not be required to be modified or replaced prior to a Commission decision on the pending applications for closure.[1]

7. As a separate matter, by Memorandum Opinion and Order, released January 10, 1975 (FCC 74-1319), RCA was granted authority to continue the use of an "inverted L" antenna at public coast radiotelegraph station WPA pending further action by the Commission in Docket No. 19544. The Commission's action was in response to a request by RCA in a letter dated July 31, 1974. In their letter, RCA called attention to their pending application to close station WPA and expressed the view, in which we concurred, that they not be required to reerect the 200 foot vertical antenna until the Commission had reached a decision on their pending application. Also by Memorandum Opinion and Order, released May 27, 1974, the Commission authorized TRT to temporarily suspend operation of station WAX for a period of 60 days. In actions subsequent thereto, the Commission, pursuant to requests of TRT, has authorized TRT to continue the suspension of operation of station WAX pending a Commission decision in this proceeding. Also by Memorandum Opinion and Order (FCC 74M-372), released April 5, 1974, the Commission authorized Great Lakes Marine Radio, Inc. to permanently discontinue radiotelegraph service at station WBL.

DISCUSSION

ADEQUACY OF SERVICE

8. The comments filed by the users confirm the Commission's concern that the service rendered by most of the public coast radiotelegraph stations is generally below an acceptable user level. With regard to those coast stations, the record is replete with reports of understaffing of operating positions; of operators expected to function efficiently while attempting to provide service on a large number of frequency bands or, in some cases, a mixture of radio and land line facilities; of partial or complete discontinuance of the listening watch on one or more of the ship station calling bands; of poorly maintained transmitting and receiving antennas which are less effective than operating without an antenna.[2] The users have emphasized the continuing need for both the world-wide high frequency as well as the coastal medium frequency radiotelegraphy services.

9. In view of this situation it can be expected, and the record so reflects, that operators aboard ship experience extended delays in contacting most coast stations. This condition, we believe, is the consequence of understaffing during all working shifts, partial or complete discontinuance of watches, antiquated operating procedures and the poorly maintained condition of equipment. These conditions force the shipboard operator to engage in repeated call attempts on a diverse number of calling frequencies, which in turn increases the congestion in the calling bands, with the overall result that service to all ships is further deteriorated.

10. Additionally, the ship operators have a problem in routing their traffic since they may be instructed by the owner or agent of the vessel (who is usually the addressee) to route the traffic to a certain coast station depending upon the particular arrangement the ship owner or agent has with a coast station for routing traffic. A large number of ship owners or agents have at least one teleprinter machine in their office provided by an IRC, and the ship operator is directed to use the coast station operated by the IRC licensee providing the teleprinter machine. Therefore, the ship station operators are often precluded from using the coast station best able to provide the service at a given time, but must await the availability of the particular coast station associated with the owner's or agent's machine. Should the operator elect to route traffic to a non-IRC coast station or to another coast station operated by a different IRC than the one providing the office machine the traffic cannot be delivered on that machine. The traffic must therefore be delivered by domestic telegram, which usually adds a delay in the receipt of the message. The traffic may also be delivered by telephone, TWX or domestic teleprinter, at an additional cost to the addressee (provided the addressee has TWX and/or domestic teleprinter in addition to the IRC teleprinter machine). As a result, most owners or agents insist that ship operators send their traffic to one particular coast station, but in so doing, invite significant delay as a result of the conditions specified in paragraph 9. Some owners or agents who manage a large number of ships actually have a teleprinter machine furnished by each IRC plus a domestic teleprinter and TWX in their offices to give themselves and the ship operators the flexibility to select any coast station that is available to send traffic expeditiously.

11. Long delays in the receipt of traffic by ship stations present a severe problem to the ship operators and the vessel owners or agents. Since the owner or agent routes traffic to a designated coast station, the ship operator is quite often at the mercy of that coast station as to when the traffic will be delivered. The ship station operator must monitor the traffic list[3] transmitted by the coast station holding traffic destined to that ship

[1] Part 81, Sections 81.137(d) and 81.139(d), as amended by the Report and Order in Docket No. 18577 (FCC 70-1177, released November 9, 1970; published in the FEDERAL REGISTER on November 13, 1970, (35 F.R. 17412)), required that "each transmitter operating on frequencies below 27.5 MHz and authorized for use at coast radiotelegraph stations after January 1, 1971, must be of a type which has been type accepted by the Commission". A period of two years was provided, until January 1, 1973, for licensees of coast radiotelegraph stations to bring existing transmitters into conformity with amended Sections 81.137(d) and 81.139(d).

[2] Based on station inspection on October 24, 1974. See paragraph 24 herein.

[3] A "traffic list" is an alphabetical listing of the call signs of those ship stations that have a message addressed to them. Each coast station transmits a traffic list on a frequency in each band. The commencement time and interval of transmission of traffic lists varies from coast station to coast station.

in order to be informed of any pending messages. He then proceeds to call that coast station for the message at which time he experiences the problems outlined above. These problems may be compounded by radio interference and poor propagation conditions. The ship station may very well be in range of another coast station that could provide an available circuit. There would be no point however in calling a different coast station since it neither has the message to deliver to the ship nor are there now any arrangements for one coast station to have access to the traffic held by another coast station. In the event the vessel owner or agent has vital traffic to send to the ship station, the course followed may be to place the traffic with two or more coast stations in order to increase the chances of timely delivery. This course of action is costly and redundant.

12. In paragraphs 10 and 11 above, reference was made to various procedures that a user may employ to give the ship operator the versatility of receiving traffic from more than one coast station. They are, (1) the use of domestic teleprinter, TWX and IRC teleprinter machines in their offices to access any coast station to route traffic to their ships, and; (2) routing vital traffic simultaneously to two or more coast stations. Neither of these procedures serves to cure the problem for several reasons, including the fact that each coast station transmits its respective traffic list on a frequency used only by it so that the ship station can receive the traffic list of only one station at any given time. The ship operator usually listens to the traffic list transmitted from that coast station designated by the user. Should a message to the ship be routed via a coast station other than the one normally monitored by the ship operator it could get delivered only if the ship operator listened to the traffic list of that station. To listen to other traffic lists the operator must tune to the different frequencies employed by the various coast stations. However, the time periods for transmitting the traffic lists at various coast stations may overlap, making it almost impossible to monitor the traffic list of any station adequately. Should someone unaware of the prior arrangement the ship station has with a designated coast station attempt to send a personal or business message to a crew member aboard a particular vessel, he finds it virtually impossible to communicate with that ship station unless he coincidentally chooses the right coast station. Traffic lists are transmitted by coast stations using one of the working frequencies in each frequency band allocated and used by that coast station for sending and receiving regular traffic, and, therefore, the use of that frequency for regular traffic is lost during the time the traffic list is transmitted. Although the amount of time required by each coast station to transmit a traffic list varies, many hours per day are dedicated to the transmission of traffic lists if we add together the total number of coast stations and number of frequency bands used at each station.

13. The arrangement that TRT, RCA and ITT have with owners or agents of various United States, Panamanian, and Liberian registered vessels provides an end to end service. This arrangement, however, has its disadvantages in that the effect is to essentially lock the ship station into using a particular coast station operated by the licensee that also provides the teleprinter office equipment. These tie-in arrangements contribute to the congestion at certain coast stations and as a practical matter deprives the user of the flexibility of accessing other coast stations for the routing of its traffic.

User's Access to Coast Stations During Non-Business Hours

14. The users are concerned that in the event a coast station(s) is permitted to close, they would lose the convenient nighttime, Saturday, Sunday and holiday (NSS&H) service and local access that is now available to them. The NSS&H service that the coast station licensees provide permits a user to telephone the coast station, during non-business hours, to either place or receive a message. The user also instructs the coast station licensee to deliver a message during non-business hours, by phone to a certain person or persons or to an answering service. Although, this service is not specifically covered by tariff, it has been rendered by all coast station licensees from the outset of the maritime mobile radiotelegraphy service. In regard to the NSS&H service presently being rendered, the Commission finds that this facet of a coast station's operation is very demanding on the coast station's operating personnel and quite often is the reason a message is delayed or is incorrectly delivered. The coast station licensees receive numerous instructions from the various users as to when, where and how a message should be delivered after hours. We are of the opinion that steps can and should be taken to minimize and hopefully eliminate the present situation and institute procedures that will simplify the operations at coast stations and at the same time provide the users with a more efficient service. The manner in which this particular service is being rendered now is unique to public coast station operations. The alternatives available to the users and the licensees are not novel and have been employed in other services for sometime on a satisfactory basis. We believe the alternatives described here, when implemented, will alleviate the concerns expressed by many of the users in losing the NSS&H and local access service.

15. The user has available the option to employ a local full time (24 hours a day, 365 days a year) answering service (LFAS). The LFAS could be the intermediary between the user and any coast station for the flow of inbound and outbound messages during nonworking hours. The utilization of a local full time answering service will facilitate operations for both the user and coast station licensees. The user's instructions to a coast station licensee for the delivery of a message will be simplified to one address to be used during business hours and one address to be used after hours.[4] Selection by the users of an LFAS that is equipped with telephone, TWX and domestic telex would further facilitate matters, since the measures set forth below require that all coast stations be equipped with TWX and domestic telex so that inbound or outbound messages can be delivered with a minimum amount of delay by routing messages to the addressee's office or their designated answering service. Another measure set forth below will require the IRC's to develop interconnection arrangements which will permit those users equipped with an IRC teleprinter machine to access any coast station for sending or receiving messages. The net result of coast stations being equipped with TWX, domestic telex and the IRC interconnection coupled with the users employment of an LFAS, will in essence provide the users with a speedy NSS&H and local access service through any coast station. Moreover, a ship station, regardless of where it is located, will be able to employ MF and/or HF bands to access any coast station and route a message to the addressee's business office or designated answering service.

16. The users should also consider employing a device on their TWX or telex machine which will automatically route an incoming message to another machine. This other machine could be located at the local fulltime answering service employed by the user. This would require that only one address be used by the ship station operator and/or the coast station personnel to forward a message. It is essential, in our opinion, that all coast stations be capable of delivering a message to an addressee equipped with a TWX, domestic telex, or IRC telex machine, and when necessary by telephone. We believe that the marine radiotelegraph community will increasingly employ marine narrow-band teleprinters (marine telex) and the methods discussed above will very readily accommodate manual and fully automatic marine teleprinter operations as well as improving present procedures.

Requests for Closure of Certain Radiotelegraph Stations

17. At the start of this proceeding the Commission had on file five applications for closures of public coast stations: RCA's for station WOE; ITT's for stations WSF, KLC and KFS; and the Maryland Port Administration's (MPA) for station WMH. During the course of the instant proceeding MPA withdrew their application for closure of station WMH, and TRT submitted an application for the closure of station WAX Additionally, RCA and ITT have requested that stations WSC and WPA

[4] The user could further help simplify the coast station's handling of a message by instructing the radio operator of their ship station to address the message, depending upon what time of the day the message is being sent, to either the user's business office or to a designated answering service.

(RCA) and KOK and KLB (ITT) also be permitted to close. Table 1 of Appendix 2 lists the stations currently authorized and, under the heading "Kind of Application" whether the licensee has requested closure. Table 2 of Appendix 2 indicates the stations which would remain if all applications for closure were granted.

18. In support of their requests for closure, RCA, ITT and TRT express the view that they are suffering severe economic loss from operation of their public coast radiotelegraph stations. Information regarding the economics of public coast radiotelegraph station operation was requested in the Notice of Inquiry and in the Second Notice of Inquiry. In addition, the report by ATS includes additional information on the same subject. The total of this information does not provide a basis upon which we can conclude that RCA, ITT and TRT are suffering severe economic loss from the operation of public coast radiotelegraph stations. In view of our actions herein we see no reason at this time to make conclusions regarding the economic situation at the various coast stations nor do we have the factual information to do so.

19. The financial information submitted by the licensees of public radiotelegraph coast stations in the instant proceeding has been examined and found to have wide variances in some important cost items from licensee to licensee. The various licensees do not report direct costs and allocated expenses on a uniform basis. For example, one licensee's allocated expenses, as a percentage of direct cost, greatly exceed those of other licensees. Another licensee's salary expenses at one station, as a percentage of direct cost, greatly exceeds that of any other similar sized station. Substantial revenues accrue to the licensees from collection and delivery of messages over landlines. The charges for the collection and delivery of messages over landlines are handled differently by the licensees. Some licensees do not include such charges in the revenue they report from the operation of their coast stations, other licensees do. Increased costs have been allocated to coast station operations at sites shared with international point-to-point fixed service facilities. Additionally, the semi-annual reports that licensees are required to submit to the Commission are not sufficiently applicable to the maritime mobile radiotelegraph coast station service. For these reasons it is our view that the present accounting procedures and forms used in the maritime mobile radiotelegraph coast station service deserve more attention and the matter is presently under active study.

20. In paragraph 5 of its Second Notice of Inquiry, the Commission asked RCA, ITT and TRT to describe their plans to effect expansion of the remaining stations so as to absorb the thousands of messages which are presently handled by the stations proposed to be closed. We also requested information regarding new equipment, services and/or facilities, and additional staffing that would be required at the remaining stations to provide an improved quality of service to the users. In addition, in our letter to RCA, ITT and TRT of November 29, 1974, we requested "specific detailed information on your proposed plans and how they will offset the loss of the station proposed to be closed".

21. The replies of RCA, ITT and TRT are inadequate in that none provide the detailed definitive plan necessary to assure that the traffic displaced as a result of the closures proposed would be handled by the remaining stations. In our opinion the situation existing today can only be assumed to further deteriorate with the closing of stations absent positive and concrete action for the expansion and improvement of the remaining stations. While we consider the RCA reply to be a positive effort to be responsive, we point out however, that the suggested increase in manpower at the remaining stations would be at a level that existed five years ago and its plan does not provide for more efficient use of manpower during a 24 hour period nor does it address the question of how service now being provided on medium frequency bands (MF) would be provided upon closure of the proposed RCA stations.

Vertical Antenna at WPA

22. The authorization granted RCA to continue use of an "inverted L" antenna at station WPA, described in paragraph (4), above, was for an interim period pending Commission decision on an application to close station WPA. On the basis of the record on file, including inspection of WPA by the Commission's Field Operations Bureau, it is our view: (1) that service available from station WPA with the "inverted L" antenna is substantially less than that with the 200 foot vertical antenna; and (2) that if service at WPA is to be brought into accord with the station authorization, it is necessary that the 200 foot vertical antenna be restored to service.

Emergency Discontinuance of Service at Station WAX

23. The Commission authorized TRT to temporarily suspend operation of public coast radiotelegraph station WAX located at Ojus and Lauderhill, Florida for a period of 60 days by Memorandum Opinion and Order and Authorization released May 27, 1975 (file no. T-D-21178-1). Such authority has been continued pending a decision in Docket 19544. To place this matter in proper perspective reference is made to our May 27, 1975 decision treating TRT's request for emergency closure wherein we found:

> The course of action followed in this matter does not demonstrate a proper view of its duties to the public which TRT serves or the procedures and Rules specified by and under the Communications Act of 1934. However, regardless of the wisdom of the decision to sell the land on which WAX's transmitters were located, the facts as represented by TRT are that the land has been sold and TRT can be compelled by law to vacate this land. WAX will, therefore, ultimately leave the air whether or not TRT is granted authority to suspend operations by this Commission. Consequently, while denial of the instant request would cause the cessation of operation of WAX to be in contravention of Section 214 and the Commission's Rules, it will not prevent closure if TRT must by law vacate the land in question.
>
> Our primary concern is that the public be adequately served. We cannot in this proceeding act on TRT's formal application to close WAX permanently. We also find that TRT's instant request does not adequately demonstrate that TRT will be able to provide service comparable to that now provided by WAX and WNU combined should WAX cease operation.

Since the proceedings in Docket 19544 are directly related to the question of adequate service, and the application for permanent authority to close station WAX is a part of this proceeding, the matter of the disposition of station WAX must be treated in the context of this Order. The measures we will prescribe as necessary and required to be implemented by the coast station licensees apply to TRT as licensee of stations WAX and WNU. Also our finding herein that none of the pending applications for closure can be granted at this time equally applies to the application for the closure of station WAX. We will therefore deny TRT's pending application for permanent closure of station WAX without prejudice to the filing of a future application by TRT that meets the terms and conditions set forth in paragraph 42e of this Order. As fully set forth in the May 27 Order, the authority for emergency temporary suspension of operations at station WAX was made contingent upon TRT accepting the conditions specified in that Order. One such condition requires that—"TRT shall reinstitute service via WAX by means of an alternate transmitter location and shall make such station operational as expeditiously as possible should the Commission order such reinstitution of service on either a temporary or a permanent basis". To provide a reasonable time period in which TRT can take the necessary steps to reinstitute service via WAX by means of an alternate transmitter location we will continue the present authority to temporarily suspend operations at station WAX for a period of six months after the release of this Order.

Receiving Antennas at WSC

24. On the basis of information accumulated during the course of the instant proceeding, followed up by the Commission's inspection of the station,[5] the receiving antennas at station WSC are inefficient and ineffective. Of the six receiving antennas available four deliver a signal which we regard as unacceptable and two provide an adequate signal. It is clear that station WSC cannot provide service in accordance with the station authorization with four of its authorized six receive antennas operating at an unacceptable level. To provide service of an acceptable level, as required by Section 81.104 of the Commission's Rules,

[5] FCC inspection on October 24, 1975.

the receiving antennas must be made efficient.

Discontinuance of Authorized Operating Frequencies at WPA, KLC, WSC, WOE, KOK and KLB

25. Inspection by the Commission's Field Operations Bureau during mid-1974 of the public coast radiotelegraph stations of RCA, ITT and TRT shows that service prescribed by the station authorization has been discontinued as follows:

WPA: 16 and 22 MHz
KLC: 6 and 22 MHz
WSC: 4, 6, 16 and 22 MHz
WOE: 4 and 22 MHz
KOK: 4 and 22 MHz
KLB: 22 MHz

The licensees of these stations have not sought authority from the Commission to discontinue the use of these frequency bands. To the extent that this discontinuance contributes to the overall situation leading to our finding that service now being provided by radiotelegraph public coast stations is inadequate the Commission finds that service on the above frequency bands must be restored.

Inadequate Operator Staffing

26. We have noted that at some stations there may be only a single operator on watch during certain times of the day, at times during the week, or during weekends. During these times the operator is required to stand watch on 500 kHz and handle traffic on the various frequency bands—500 kHz, 4, 6, 8, 12, 16 and 22 MHz; to work the telephone and landline telegraph facilities; to prepare traffic lists and to carry out other essential functions. A work schedule of this magnitude is unrealistic, and the service which an operator can render under these conditions does not meet the requirements of the public interest, convenience and necessity. Accordingly, each licensee shall adequately staff their respective station(s) during the time each station is authorized to operate.

Reinstatement of Type Acceptance

27. As set forth in paragraph 6 above, in an Order released December 18, 1972, we suspended the requirement for type acceptance of transmitters at public coast radiotelegraph stations pending release of a further order, based on information derived from the instant proceeding. In view of the decisions set forth in this Memorandum Opinion and Order, it is appropriate to remove the suspension provided by our Order of December 18, 1972, and to reinstate the requirement that transmitters used at public coast radiotelegraph stations conform to the Commission's type acceptance program.

28. While we are requiring that transmitters at public coast radiotelegraph stations conform to type acceptance, there are several tests in the case of transmitters installed prior to January 1, 1971, which we believe would be burdensome to the licensees, if they were applied without change, and which would not be of particular benefit to the public. We are not therefore requiring:

(a) that the tests be made over an ambient temperature range of −20° to +50° centigrade;

(b) that the tests be made with input (primary) supply variations of + and −15%; or

(c) the tests for spurious emissions Section 2.993, Subpart J of Part 2.

On the other hand, a licensee desiring to do so may employ the procedures set forth in Subpart J of Part 2. We will not grant exceptions to the standard technical requirements set forth in Subpart E of Part 81.

29. In lieu of temperature variation, we could accept tests made at normal temperature of the room in which the transmitter will be operated. For frequency stability, for example, we could accept measurements made twice daily, separated by 12 hours, over a period of one month, with no interim corrections. In lieu of primary supply variations, the voltage at which the transmitter normally operates could be used. For spurious emissions, the requirements of Section 2.991, Part 2, could be applied without change. In summary, in lieu of the tests prescribed by Subpart J, Part 2, in the three areas specified in paragraph 28 above, we expect the concerned licensees to submit to the Commission alternative test procedures which would be used in testing transmitters of the licensee installed at public coast radiotelegraph stations prior to January 1, 1971. Upon approval by the Commission, we would then expect those test procedures to be applied in the testing of the concerned transmitters. In regard to time required to complete testing and equipment modification, where required, a period of one year appears to be adequate.

30. In the comments filed in this proceeding and the proceeding in Docket No. 18577 (see footnote to paragraph 6 above) a number of commenters expressed the view that compliance with the provisions of amended Section 81.137 (d), Part 81, would necessitate the replacement of the older transmitters. This would seem to us to be an overstatement of the actual situation. On the basis of our inspection of the stations during mid-1974, most of the transmitters affected operate on only one frequency and it should be feasible to adequately suppress the spurious emissions by the use of filters. As concerns frequency stability it may be necessary to replace the oscillator section of some of these transmitters, however, the filter and replacement oscillators are a mere fraction of the cost of replacing the transmitters. Excellent solid state oscillator and buffer sections, packaged as a unit and temperature compensated, are available from a number of manufacturers at nominal cost. The amended Section 81.137(d) is set forth in Appendix 3, attached.

New Station—Savannah, Georgia

31. The application (File No. 939-M-L-80) of Alpha B. Martin (Martin) for a new public coast radiotelegraph station at Savannah, Georgia, was included in and made a part of the instant proceeding. No opposition was filed to this application. This station would provide MF and HF communications, the area of service would be along the East Coast, and would be generally comparable to other independent stations at Tampa, Florida (WPD), Mobile, Alabama (WLO), Rogers City, Michigan (WLC). The closest station to the north (575 miles) would be Baltimore, Maryland (WMH) and to the south (430 miles) would be Hialeah, Florida (WAX). The station should be capable of augmenting and enhancing the radiotelegraph service currently available to the ports of Jacksonville, Florida; Savannah, Georgia; Charleston, South Carolina; Wilmington, North Carolina; and possibly others.

32. The Commission finds that a station at Savannah, Georgia, as requested by Martin appears to be in the public interest; however, the application submitted by Martin is presently defective and requires modification in regard to several matters due to changes in the rules which have occurred since the application was filed in 1970 and in view of the actions taken herein. We are, therefore allowing a period of ninety days from the date of release of this Memorandum Opinion and Order for Martin to amend his application to bring it into accord with the rules.

Application for Limited Coast Radiotelegraph Station

33. Part 81 of the Commission's Rules (Sections 81.203, 81.204 and 81.205) make provision for the licensing of limited coast radiotelegraph stations. This provision has been in the rules since 1951 but no authorizations have been issued for such stations since there have not been enough radiotelegraph frequencies available for assignment to limited coast stations. Included in this proceeding is the application of J. Ray McDermott (McDermott) for a limited coast radiotelegraph station at Harvey, Louisiana. The service which would be rendered under the requested authorization would be to vessels owned or operated by McDermott and would be indistinguishable from the service which would be rendered to the general public by public coast radiotelegraph stations. McDermott claims that the desired grade of service (narrow-band direct-printing telegraphy and data transmission) is not available from public coast radiotelegraph stations. We agree that at the time of filing of McDermott's application there was no established or regular radioteleprinter/data service available, although station WLO at Mobile, Alabama was in the process of establishing such service on a regular basis and TRT Telecommunications Corporation had offered such service to McDermott from its station WNU at New Orleans, Louisiana.

34. Subsequent to the filing of McDermott's application narrow-band di-

rect-printing telegraph and data transmission service has become available at station WLO. Additionally, RCA in conjunction with the U.S. Maritime Administration (MARAD) is presently testing and evaluating a system of high frequency (HF) radio teleprinter communications between ships and RCA's coast station KPH located in San Francisco, California, using digital selective calling, error-correction teleprinter equipment and unattended teleprinter operation. RCA also provides telex service using codex or non-error-correcting equipment at station KPH.

35. In view of the current and future needs of public coast radiotelegraph stations of additional frequencies for manual and unattended teleprinter operations, it does not appear that radiotelegraph frequencies are now or will in the foreseeable future be available for assignment to limited coast radiotelegraph stations. Furthermore, it is our view that the congestion which presently prevails on limited radiotelephone coast station frequencies [6] would not be technically acceptable on radiotelegraph frequencies for use of narrow-band direct-printing telegraph and data transmissions by limited coast stations. It is our view that the public coast station system of communications will provide the best means for the management of radiotelegraph frequencies on an equitable, disciplined and reliable basis and would best serve the public interest.

36. Accordingly, we find that a grant of McDermott's application for a limited coast radiotelegraph station would not serve the public interest, convenience or necessity. Rulemaking to delete various sections in Part 81 which provide for licensing of limited coast radiotelegraph stations will be initiated as a separate proceeding.

Other Matters

37. The petition of Steffan Sorenson, RM-1838,[7] was made a part of the proceeding in Docket No. 19544. In his petition Mr. Sorenson urges that changes be made in the radiotelegraph operating procedures and in the intervals between transmission of traffic lists. Mr. Sorenson's suggested changes to the radiotelegraph calling procedures were, to a major degree, incorporated into the ITU Radio Regulations by the World Maritime Administrative Radio Conference, Geneva, April–June 1974. It is anticipated that these new procedures will be incorporated into the Commission's rules in an appropriate future rulemaking proceeding. Mr. Sorenson's suggestion that the interval between transmission of traffic lists by coast stations be decreased was also incorporated into the Radio Regulations by the 1974 WMARC and is being included in the rules in a separate proceeding.

Findings

38. Upon consideration of the information contained in Docket 19544 and in view of the foregoing discussion, we find that the service now being rendered by radiotelegraph public coast stations operated by RCA, ITT and TRT is inadequate and those licensees have not made the necessary showing upon which the Commission can make a finding pursuant to Section 214 of the Communications Act that neither the present nor future public convenience and necessity will be adversely affected by a grant of the pending applications for closure. To the contrary, it appears to us that the record in this proceeding amply supports a finding that the existing public coast station facilities are inadequate for the expeditious and efficient performance by the licensees of their service as common carriers, and that measures must be prescribed by the Commission so that the licensees may take the necessary steps to correct the existing situation and provide an improved level of service to the public.

39. In making this finding we are not of the opinion that additional coast stations are required to be established by the IRC's. Rather our finding that existing facilities are inadequate relates to the manner in which the existing facilities are now being utilized and maintained and the procedures presently employed by the licensees in rendering service to the public. Our action herein is not intended to foreclose the consideration of applications for closure of certain public coast stations in the future nor do we believe that the future closure of stations would be inconsistent with our findings so long as the carrier filing for closure is able to demonstrate to our satisfaction that such closures would not adversely affect the public interest. By taking the measures prescribed herein it is our belief that the licensees will be in a better position to formulate a positive and definitive program for improved service to the public and at the same time demonstrate that the level of service required can be achieved with fewer coast stations. In so doing, we do not believe that the expense involved will impair the ability of the carrier to perform its duty to the public.

40. Therefore, in order to provide a firm basis upon which the licensees can proceed to make the necessary changes and provide an improved level of service to the public, we find that the following measures are required in the public interest, convenience and necessity and that each licensee must take the necessary steps to implement these measures, particularly RCA, ITT and TRT, the licensees of public radiotelegraph coast stations providing the vast majority of the services utilized by the public.

41. The present methods employed in the handling of traffic lists must be reviewed by each licensee for the purpose of improving those methods and developing a uniform procedure of transmitting traffic lists from the various public coast stations. While a final specific procedure will not be established at this time, it may be feasible to develop a procedure to provide for more frequent transmission of traffic lists using the same designated frequency in each band by each coast station or by using other methods. In such cases the frequencies should be dedicated solely for the scheduled transmission of traffic lists from the various coast stations. In order to develop this concept in greater detail we will institute a separate inquiry on this subject in the near future and comments will be solicited at that time.

Prescribed Measures

42. (a) In order to provide the users with the necessary flexibility of selecting any coast station for the sending or receiving of messages and having these messages sent or received by use of its teleprinter machine regardless of the IRC providing that equipment, it is necessary that each IRC licensee develop and submit appropriate interconnection arrangements to the Commission. Further, it is necessary that the independent public coast station licensees have the opportunity of entering into appropriate interconnection arrangements with the IRC's so that the users of those coast stations may also send or receive messages by use of teleprinter machines provided by the IRC licensees. The IRC interconnection arrangements shall be filed with the Commission within 60 days following release of this Order. The Chief, Common Carrier Bureau and the Chief, Safety and Special Radio Services Bureau shall have the responsibility of reviewing these arrangements and working with the licensees in resolving any problems that arise so that appropriate interconnection arrangements may proceed to be implemented no later than 120 days following release of this Order.

(b) Each public coast station must have the capability to directly send or receive messages by use of TWX and domestic telex with those users who employ either TWX and/or domestic telex. Accordingly, within 45 days from date of release of this Order, the coast station licensees shall make provision at each of their stations to directly send or receive messages by TWX and domestic telex.

(c) Specific arrangements must be made whereby any ship Station operator after being notified by a particular coast station that a message destined to that ship station has been filed and after attempting to obtain that message in a reasonable period of time may then request another available coast station to retrieve such message from the coast station holding it and transmit the message to the ship station. While we are of the opinion that a speed of service standard not to exceed four hours is a reasonable period to normally effect delivery, and we are adopting such a standard on an interim basis, we will direct the staff to establish a speed of service standard

[6] There are over 1000 limited coast radiotelephone stations sharing the presently assigned frequencies and congestion and interference is a problem.

[7] The number of this rulemaking request was listed erroneously as "RM-1938" in the Notice of Inquiry, released July 20, 1972.

after having reviewed reports of the licensees describing procedures employed to accomplish the exchange of messages and any recommendations the users and the licensees may wish to make concerning a reasonable time standard. In order to gain experience with the new procedures we are providing a six month period to develop and implement such procedure. A report from each licensee on the message relay procedure adopted is required at the end of the six month period.

(d) Each licensee must undertake to develop a comprehensive program for the implementation of a high quality radioteleprinter service and the institution of a selective calling system at the earliest possible date. Other improvements such as five unit-to-morse converters to expedite the routing of lengthy messages; use of video data terminals or teleprinters for copying messages from ship stations; automate the compiling and transmission of traffic lists utilizing information covering ship radio officers' watch time, zone and frequency indicators; teleprinter to TWX converters should be implemented. In this regard, reference is made to RCA's letter dated April 1, 1975, which is in reply to the Commission's letter of November 29, 1974. RCA's letter illustrates and serves as an example of the kind of teleprinter program and other improvements needed to be undertaken by the coast station licensees.

(e) With regard to service being provided on the medium frequency bands each licensee filing a future application for closure of a public radiotelegraph coast station must show how it proposes to continue to provide such service by the operation of a remote control station operating on the MF frequency bands in the area of the station to be closed or by some other proposed means or make a showing that such operations are not required and that the public interest, convenience and necessity will not be adversely affected by the discontinuance of such service. The showing must specially address the effect that any coast station closure would have on the adequate coverage of the international distress frequency, 500 kHz, due to the fact that the watch required by Part 81 of the Commission's Rules on 500 kHz would be discontinued as a result of the station closure. Each licensee filing a closure application is required to submit a chart of sufficient scale and detail showing the MF coverage area from each of the coast stations operated by the licensee including the station or stations proposed to be closed. This information will be used along with other information available to the Commission to properly assess the loss of MF coverage by the proposed station closures and the ability of remaining stations to provide the necessary coverage on 500 kHz for distress purposes.

Order

43. It is hereby ordered, that, pursuant to Sections 4(i), 214 and 403 of the Communications Act of 1934, the pending applications filed by RCA, ITT and TRT for closure of the radiotelegraph public coast stations referred to herein ARE DENIED WITHOUT PREJUDICE to filing a future application for closure of such stations provided that such applications are accompanied by a detailed report addressing each of the matters discussed herein showing the steps taken to implement the measures for improvement prescribed above and that the stations not proposed to be closed will be capable of providing a service that will satisfy the public interest, convenience and necessity. The filing of such application for closure will not relieve a licensee from complying with the requirements of paragraphs 44, 45 and 46 of this Memorandum Opinion and Order.

44. It is further ordered, that, the requirements specified in paragraphs 22, 23, 24, 25 and 26 shall become effective six months after the release of this order.

45. It is further ordered, that, any licensee filing a future application for closure of a radiotelegraph public coast station shall comply with the requirements contained in paragraph 42 herein.

46. It is further ordered, that, a) transmitters at public coast radiotelegraph stations shall be type accepted, as discussed in paragraphs 27 through 30 above, within a period of one year from release of this Memorandum Opinion and Order, and, b) Section 81.137(d), Part 81 of the Commission's Rules and Regulations, is hereby amended as set forth below, June 30, 1976.

47. It is further ordered, that, the licensees shall file written monthly reports to the Commission on the progress being made pursuant to paragraphs 22, 23, 24, 25, 26 and 42 herein.

48. It is further ordered, that, the application of J. Ray McDermott for a limited radiotelegraph coast station, File No. 990-M-L-61, at Harvey, Louisiana is to remain in file pending rulemaking as discussed in paragraph 36.

49. It is further ordered, that, the petition for Rulemaking (RM-1838) submitted by Steffan Sorenson is granted to the extent discussed in paragraph 37 and denied in all other respects.

50. It is further ordered, that, action on the application (File No. 939-M-L-80) filed by Alpha B. Martin be withheld for a period not to exceed 90 days to permit the filing of appropriate amendments consistent with this Order and the Commission's Rules.

51. It is further ordered, that, the proceeding in Docket No. 19544 is HEREBY TERMINATED recognizing that several matters remain to be completed by licensees and Commission staff.

(Secs. 4, 214, 403, 48 Stat., as amended, 1066, 1075, 1094; 47 U.S.C. 154, 214, 403.)

Adopted: May 17, 1976.

Released: May 27, 1976.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[1] Dissenting statement of Commissioner Robinson filed as part of the original.

Part 81 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 81.137(d) is revised to read as follows:

§ 81.137 Acceptability of transmitters for licensing.

* * * * *

(d) Each radiotelegraph transmitter operating on frequencies below 27.5 MHz and authorized for use at coast radiotelegraph stations (other than transmitters authorized solely for developmental stations) must be of a type which has been type accepted by the Commission.

* * * * *

APPENDIX 1—LIST OF COMMENTERS

A. Alvevizos
Abrams, Anton, Robbins, Resuick & Schneider, P.A.
Aeronautical Communications Equipment, Inc.
American Communications Association
American Institute of Merchant Shipping
American Maritime Association
American Radio Association
Arthur D. Carroll
Atlantic Richfield Co.
Ayers Steamship Co., Inc.
Biehl & Company (Galveston, Texas)
Biehl & Company (Houston, Texas)
C. E. Fredrickson
Central Radio Telegraph Co.
Central Committee on Communication Facilities of the American Petroleum Institute
Communications Workers of America
Communications Associates, Inc.
Continental Electronics Mfg. Co.
Clara Lee Warner Wood
Dix Shipping Company, Inc. (Brownsville, Texas)
Dix Shipping Company, Inc. (Corpus Christi, Texas)
Dodd, Barker, Boudreaux, Lamy & Gardner
Don C. Wilson
Edward S. Cameron
Eugene L. Bershad
E. S. Binnings, Inc.
Exxon Communications, Inc.
Farrel Lines
Fried, Frank, Harris, Shriver & Kampelman
Great Lakes Marine Radio, Inc.
Hansen & Tideman, Inc.
Hellenic Lines Limited
Horace E. Seay
H. O. Zahn (Col.)
Irvin C. Cohen
ITT World Communications, Inc.
Jacksonville Maritime Association, Inc.
John C. Anderson
John C. Iciak
John W. Waterloo
Joint comments of the Maritime User Community (7 associations, 97 shipping companies, and 2 unions)
Kenneth Cossaboom, Robert Smith, Charles Karafotias, Eugene Kauder, Joseph Penot, Lester Parnell and John Chow
KPH Shop Committee (Messrs. Smith, Meloney and Martin)
Kuckenbach Steamship Company, Inc.
Lykes Bros. Steamship Co., Inc.
Maryland Department of Transportation
Max Grossman
M/S Nordic Prince
Moran Shipping Agencies, Inc.
New Orleans Steamship Association
Oceans International Corporation
Pacific Far East Line, Inc.
Pacific Merchant Shipping Association
Phillips-Parr, Inc.
Ramsay Scarlett & Co., Inc.
RCA Global Communications, Inc.

RF Communications Division, Harris Intertype Corp.
Roberts Steamship Agency, Inc.
Robert S. Yerkes
Robert W. Ennis
Salvatore T. Ciofalo
Smith & Kelly Company
Southern Electronic Association
Sovereign Marine Lines, Inc.
Sparta Electronic Corp.
Staff of WSC (Messrs. Brooks, White, Stillwagon, Ciofalo, Dale and Parker)
States Shipping Agency, Inc.
Steffen Sorensen
Stolt-Nielsen, Inc.
Strachlan Shipping Company
Texas Transport & Terminal Co., Inc.
The Port of Port Arthur
T. J. Stevenson & Co.
Transoceanic Freighting Services
TRT Telecommunications Corp.
U.S. Department of Commerce, National Weather Service
Walter P. Lindner
West Gulf Maritime Association
Western Union International, Inc.
Wilkenson Electronics, Inc.
Wilmington Shipping Company
WLO Mobile Marine Radio, Inc.

APPENDIX 2

TABLE 1.—*Before closures, marine radiotelegraph public coast stations*

Area	Call	Location	Licensee or applicant [1]	Kind of application	File No.
North Atlantic coast	WCC	Chatham, Mass	RCA		
	WSL	Amagansett, Long Island, N.Y	ITT		
	WSF	New York, N.Y	ITT	Close	T-D-17509
	WSC	Tuckerton, N.J	RCA	do	
	WMH	Baltimore, Md	MPA		
South Atlantic coast	WOE	Lantana, Fla	RCA	Close	T-D-17603
	WAX	Hialeah, Fla	TRT	do	T-D-21178
Gulf coast	WPD	Tampa, Fla	Wood		
	WLO	Mobile, Ala	MMR		
	WNU	New Orleans, La	TRT		
	WPA	Port Arthur, Tex	RCA	Close	
	KLC	Arcadia, Tex	ITT	do	T-D-18395
Pacific coast	KOK	Los Angeles, Calif	ITT	do	
	KFS	San Francisco, Calif	ITT	do	T-D-18394
	KPH	do	RCA		
	KLB	Seattle, Wash	ITT	Close	
Great Lakes	WLC	Rogers City, Mich	CRT		

[1] RCA=RCA Global Communications, Inc.; ITT=ITT World Communications Inc.; MPA=Maryland Port Authority; Wood=Clara Lee Warner Wood; MMR=Mobile Marine Radio; TRT=Telecommunications, Inc.; CRT=Central Radio Telegraph Co.

TABLE 2.—*After closure, marine radiotelegraph public coast stations*

Area	Call	Location	Licensee or applicant [1]	Kind of application	File No.
North Atlantic coast	WCC	Chatham, Mass	RCA		
	WSL	Amagansett, Long Island, N.Y	ITT		
	WMH	Baltimore, Md	MPA		
South Atlantic coast					
Gulf coast	WPD	Tampa, Fla	Wood		
	WLO	Mobile, Ala	MMR		
	WNU	New Orleans, La	TRT		
Pacific coast	KPH	San Francisco, Calif	RCA		
Great Lakes	WLC	Rogers City, Mich	CRT		

[1] RCA=RCA Global Communications, Inc.; ITT=ITT World Communications Inc.; MPA Maryland=Port Authority; Wood=Clara Lee Warner Wood; MMR=Mobile Marine Radio; TRT=Telecommunications, Inc.; CRT=Central Radio Telegraph Co.

[FR Doc.76-15832 Filed 5-28-76;8:45 am]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 87—AVIATION SERVICES

Assignment of Licenses

In the Matter of editorial amendment of the rules to provide a new form for assignment of authorizations for stations on land in the Maritime Services and Alaska Public Fixed Stations (Part 81) and for land stations in the Aviation Services (Part 87).

1. The Safety and Special Radio Services Bureau wishes to adopt a consistent system and set of forms for assignment of licenses in its various services.

2. Accordingly, appropriate rule sections will be hereby editorially amended, as indicated below.

3. The effect of these amendments is to abolish the use of the Form 702 for assignments under Part 81 of the rules and to provide for the use of a Form 503 in lieu thereof. A Form 406 will be used for this purpose under Part 87. Under both parts, in addition to the forms just mentioned, the holder of a station authorization desiring to assign it to another person shall submit a letter setting forth his desire and indicating that he will submit his authorization for cancellation upon completion of the assignment. In lieu of this letter, the assignor may complete and sign an FCC Form 1046.

4. Accordingly, § 81.42 is amended and a new § 87.22 is added effective June 9, 1976.

5. Authority for this action is delegated to the Executive Director by Section 0.231(d) of the rules. Because the amendment is editorial in nature, the public notice, procedure and effective date requirements of 5 USC 553, do not apply.

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

Adopted: May 25, 1976.

Released: May 26, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Parts 81 and 87 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 81.42 of the rules, the headnote and paragraph (a)(1) are amended to read as follows:

§ 81.42 Applications for consent to assignment of station license or for consent to transfer of control of corporation holding same.

(a) *Voluntary.* (1) Except for fixed stations using frequencies above 952 MHz, the holder of a station authorization desiring to assign to another person the privilege to construct or use a radio station, shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 503 prepared by and in the name of the person to whom the station is being assigned. Fixed stations using frequencies above 952 MHz shall use FCC Form 402, "Application for Microwave Station Authorization in the Safety and Special Radio Services", for this purpose. In lieu of the letter the assignor may complete and sign an FCC Form 1046.

* * * * *

2. A new § 87.22 is added to read as follows:

§ 87.22 Assignment of fixed stations in the Aviation Service.

When the holder of a station authorization desires to assign to another person the privilege to construct or use a radio station, he shall submit to the Commission a letter setting forth his desire to assign all right, title, and interest in and to such authorization, stating the call sign and location of station. This letter shall also include a statement that the assignor will submit his current station authorization for cancellation upon completion of the assignment. Enclosed with this letter shall be an application for Assignment of Authorization on FCC Form 406 prepared by and in the name of the person to whom the station is being assigned. In lieu of the letter, the assignor may complete and sign an FCC Form 1046.

[FR Doc.76-15833 Filed 5-28-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Service Order No. 1102, Amdt. 9]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. and Consolidated Rail Corp.

MAY 26, 1976.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of May 1976.

Upon further consideration of Service Order No. 1102 (37 FR 13697, 28634; 38 FR 17843, 33086, 33302; 39 FR 18655, 41853; 40 FR 24005 and 55860; and 41 FR 15414), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1102 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1102 Service Order No. 1102.

(a) *Delaware and Hudson Railway Company and Consolidated Rail Corporation authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, New York.* * * * *

* * * * * *

(e) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Lewis R. Teeple, Thomas J. Byrne and William J. Love. Member William J. Love not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–15862 Filed 5–28–76;8:45 am]

[Service Order No. 1163, Amdt. 5]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co.

MAY 26, 1976.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of May 1976.

Upon further consideration of Service Order No. 1163 (38 FR 32259; 39 FR 18280, 41845; 40 FR 24005 and 56443), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1163 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1163 Service Order No. 1163.

(a) *Missouri Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company.* * * *

* * * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 31, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members, Lewis R. Teeple, Thomas J. Byrne, and William J. Love. Member William J. Love not participating.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–15863 Filed 5–28–76;8:45 am]

[Ex Parte No. MC–88]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Detention of Motor Vehicles—Nationwide

It appearing, That the Commission, by notice and order dated May 22, 1973, instituted this rulemaking proceeding under authority of part II of the Interstate Commerce Act, 49 U.S.C. 301 *et seq.* (1970), including sections 204(b), 208(a), 216 (b) and (d), 217 (a), (b), and 222(a), thereof and pursuant to the Administrative Procedure Act, §§ 4 and 10, 5 U.S.C. § 553 and 559 (1970), with the view to adopting the proposed regulations appearing in appendix IV of the accompanying reports also filed on this date in order to provide uniform nationwide rules and charges for the detention of motor vehicle.

It further appearing, That by said notice of proposed rulemaking all motor common carriers subject to the Interstate Commerce Act, except those transporting exclusively: (1) household goods, (2) commodities in bulk in tank trucks, (3) heavy and specialized commodities or articles requiring special handling, and (4) articles picked up from or delivered to railroad cars having prior or subsequent transportation by rail, were made respondents, the Commission's Bureau of Enforcement was directed to participate, and any other interested party was invited to participate with regard to the proposed regulations set forth therein; that a copy of the proposed rulemaking was served on each respondent therein, given by mail to the governor of every State having jurisdiction over transportation, deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. and delivered for publication in the June 29, 1973 issue of the FEDERAL REGISTER (38 FR 17254).

It further appearing, That various parties submitted their views and suggestions regarding the proposed rules, and various petitions and replies thereto, and the Commission has considered such representation, and on the date hereof, has made and filed its report containing its findings of fact and conclusion thereon, which report is hereby referred to and made a part hereof;

It is ordered, That the petition to correct of the Southern Motor Carriers Rate Conference, Inc., filed September 12, 1974 be, and it is hereby granted, and that the motion to strike or for clarification of the Drug and Toilet Preparation Traffic Conference, Eastern Industrial Traffic League, Inc. and The National Small Shipments Traffic Conference, Inc. be, and it is hereby denied.

It is further ordered, That the Commission hereby adopt the regulations set forth in appendix V of said report;

It is further ordered, That the regulations adopted herein be published in the FEDERAL REGISTER and in the Code of Federal Regulations.

It is further ordered, That the regulations adopted herein shall take effect 60 days after the date of publication in the FEDERAL REGISTER and remain in effect until modified or revoked in whole or in part by further order of the Commission.

And it is further ordered, That notice of this order shall be given to the public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C.

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

By the Commission.

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

Amend 49 CFR § 1307.35 "terminal and special services," by adding thereto as 1307.35(e) the following:

§ 1307.35 Terminal and special services.

* * * * *

(e) *Detention of vehicles.* The following rules apply to all shipments except shipments of household goods; commodities transported in bulk in tank truck, dump trucks, vehicles pneumatically unloaded and other self-unloading mechanized vehicles; heavy and specialized commodities or articles requiring special equipment or handling outside the scope of the certificates of general-commodities motor common carriers; livestock other than ordinary; articles picked up or delivered to railroad care having prior or subsequent transportation by rail; and shipments to consignors and consignees of waterborne commerce at marine terminal facilities to the extent that the marine terminal operator would be liable to the motor common carrier for truck detention under any applicable detention rule promulgated pursuant to the authority of the Federal Maritime Commission.

All common carriers of property by motor vehicle subject to Interstate Commerce Act excepting those specifically excluded, *supra,* shall publish the below rule entitled "Detention-Vehicles With Power Units" and all such carriers engaging in the practice of spotting shall also publish the below rule entitled "Detention-Vehicle Without Power Units." The wording of the following rules may not be varied except where clearly warranted by exceptional circumstances, and where appropriate, the word "rule" may be substituted for the word "item."

(1) *Detention-vehicles with power units.* This item applies when carrier's vehicles with power units are delayed or detained on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

Section 1. General provisions. (a) This item applies only to vehicles which have been ordered or used to transport shipments subject to truckload rates. For the purposes of this item, the term truckload rates shall be considered to include shipments moving on a rate subject to a stated minimum weight of 10,000 pounds or more when not designated as a truckload rate, and, where applicable, shipments which are assessed charges based on the provisions of a Capacity Load Rule or are accorded Exclusive Use of Vehicle Service or Expedited Service.

(b) This item applies only when vehicles are delayed or detained at the premises of pickup or delivery and only when such delay or detention is not attributable to the carrier.

(c) Free time for each vehicle will be as provided in section 4. After the expiration of free time, charges will be assessed as provided in section 5.

(d) The detention charges due the carrier will be assessed against the consignor in the case of loading and against the consignee in the case of unloading, irrespective of whether line-haul charges are prepaid or collect. When detention charges are attributable to others who are not parties to the Bill of Lading contract, the charges will be assessed against the shipment. (See Note A.)

(e) When carrier's employee assists in loading, unloading, or checking the freight, this item will apply whether or not the power unit is actually detained.

(f) Nothing in this item shall require a carrier to pick up or deliver freight at hours other than carrier's normal business hours. This shall not be construed to restrict a carrier's ability to accept pickup and delivery schedules at hours other than its normal business hours.

Section 2. Definitions. The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle" means straight trucks or tractor-trailer combinations used for the transportation of property.

(b) "Loading" includes furnishing carrier with the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order."

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment,

(3) Notification to the carrier that vehicle is unloaded, and

(4) Signing of the delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Normal nonworking periods" means meal, coffee, and rest breaks.

(g) "Pallet" means pallets, platforms, shipping racks, or skids with or without standing sides or ends, but without tops.

Section 3. Computation of time. (a) Commencement and termination: (1) The time per vehicle shall begin to run upon actual notification by carrier's employee to a responsible representative of consignor, consignee, or other designated party at the premises of pickup or delivery of the arrival of the vehicle for loading or unloading. Upon such notification, the responsible representative of consignor, consignee, or other designated party may enter the time of arrival onto the carrier's detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding upon each party.

(2) Time shall end upon completion of loading or unloading except as provided for in paragraph (c) of this section. Upon such completion, a responsible representative of consignor, consignee, or other designated party may enter the time of completion onto the carriers' detention record. If the representative refuses to enter the time, then carrier's employee will enter the time and it will be binding.

(b) Prearranged scheduling: (1) Subject to the provisions of item *, and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for arrival of the vehicle for loading or unloading.

(2) When the carrier enters into a prearranged schedule with consignor, consignee, or others designated by them for the arrival of the vehicle for loading or unloading and carrier is unable for any reason to maintain such schedule, then carrier and consignor, consignee, or other party designated by them have the option to agree to a mutually convenient and prompt alternative arrival time or in the event such agreement cannot be reached, to compute detention time against consignor, consignee, or other party designated by them from carrier's actual arrival time subject to an extension of 15 minutes for each 15 minutes, or fraction thereof, the vehicle is delayed beyond the originally scheduled arrival time; in no case shall such extended free time exceed 60 minutes.

(3) If carrier's vehicle arrives prior to scheduled time, time shall begin to run from the scheduled time or actual time loading or unloading commences, whichever is earlier.

(c) Conditions governing the computation of time: (1) Computations of time are subject to and are to be made within the normal business hours at the designated place of pickup or delivery. If carrier is permitted to work beyond this period, such working time shall also be included.

(2) When loading or unloading is not completed at the end of normal business hours at the designated place, consignor, consignee, or other party designated by them shall have the option: (i) to request that the vehicle without power remain at its premises subject to the provisions of section 4(d); or

(ii) to request that the vehicle with power be returned to carrier without being subject to charges for storage or redelivery so long as free time has not yet expired. When the vehicle is returned for completion of loading or unloading the computation of any remaining free time will resume. If free time has expired and detention has begun to accrue, storage or redelivery charges as may otherwise be provided will be assessed.

(3) When carrier's employee interrupts loading or unloading by the taking of any normal nonworking periods, any such time will be excluded from the computation of free time, or will be excluded from the computation of time in excess of free time.

Section 4. Free time. (a) Free time shall be computed as follows:

Actual weight in pounds per vehicle stop (see note B):	*Free time in minutes per vehicle stop*
Less than 10,000	120
10,000 but less than 20,000	180
20,000 but less than 28,000	240
28,000 but less than 36,000	300
36,000 or more	360

(b) When at least 90 percent of the shipment weight (exclusively of pallet weight) is loaded on pallets, or when shipment is loaded on flat-bed or other open-top equipment, free time shall be one-half that amount normally applicable for the weight.

(c) When more than one truckload shipment or a truckload shipment and one or more less-than-truckload (LTL) or any quantity (AQ) shipments are loaded on one vehicle at the premises of consignor or when more than one truckload shipment or a truckload shipment and one or more LTL or AQ shipments are unloaded from one vehicle at the premises of consignee or other designated party, the combined weight will be used to determine free time; in all other instances the individual shipment weight will be used.

(d) When a vehicle with power is changed to a vehicle without power at the request of consignor, consignee, or other party designated by them, the free time and detention

charges will be applied as follows: (1) If the change is requested and made before the expiration of free time for a vehicle with power, free time will cease immediately at the time the request is made, and detention charges for vehicles without power will immediately commence with no further free time allowed.

(2) If the change is requested and made after the expiration of free time for a vehicle with power, free time and detention charges will be computed on the basis of a vehicle with power up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for vehicles without power with no further free time allowed.

(e) When a vehicle is both unloaded and reloaded, each transaction will be treated independently of the other, except that when loading is begun before unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

(f) Loading or unloading at more than one site at or on the premises of consignor, consignee, or other designated party shall constitute one vehicle stop.

Section 5. Charges. When the delay per vehicle beyond free time is 1 hour or less the charge will be $18. For each additional 30 minutes or fraction thereof, the charge will be $9.

Section 6. Records. A written record of the following information must be maintained by the carrier on all truckload shipments, and such record must be kept available at all times:

(a) Name and address of consignor, consignee, or other party at whose premises freight is loaded or unloaded;

(b) Identification of vehicle tendered for loading or unloading;

(c) Date and time of notification of arrival of the vehicle for loading or unloading;

(d) Date and time loading or unloading is begun;

(e) Date and time loading or unloading is completed;

(f) Date and time vehicle is released by consignor, consignee, or other party at place of pickup or delivery after loading or unloading is completed;

(g) Actual time of nonworking periods;

(h) Total actual weight of shipment or shipments loaded or unloaded;

(i) Whether articles are tendered under a prearranged schedule for loading or unloading;

(j) Date and time specified for vehicles tendered under a prearranged schedule;

(k) Alternative arrangement made when a vehicle is tendered under a prearranged schedule that was not adhered to.

NOTE A.—At those marine terminal facilities where Federal Maritime Commission detention charges apply, carrier charges pursuant to this rule will be assessed against the shipment to the extent such charges exceed those of the Federal Maritime Commission.

NOTE B.—Also applies to the last vehicle used in transporting overflow truckload shipments, or to vehicles containing truckload shipments stopped for completion of loading or partial unloading.

(2) *Detention-vehicles without power units spotting or dropping of trailers* (Note).—This item applies when carrier's vehicles without power units are delayed or detained on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit, subject to the following provisions:

Section 1. General provisions. (a) Subject to the availability of equipment, carrier will spot empty or loaded trailers for loading or unloading on the premises of consignor, consignee, or on other premises designated by them, or as close thereto as conditions will permit.

(b) Loading or unloading will be performed by consignor, consignee, or other party designated by them. When carrier's employee assists in loading, unloading, or checking the freight, the detention provisions governing vehicles with power units will apply. In the case of spotting for loading the Bill of Lading must show "Shipper Load and Count."

(c) Carrier responsibility for safeguarding shipments loaded into trailers spotted under the provisions of this item shall begin when loading has been completed and possession thereof is taken by the carrier.

(d) Carrier responsibility for safeguarding shipments unloaded from trailers spotted under the provisions of this item shall cease when the trailer is spotted at or on the site designated by consignee.

(e) Free time for each vehicle will be as provided in section 3. After the expiration of free time charges will be assessed as provided in section 4.

(f) The detention charges due the carrier will be assessed against the consignor in the case of spotting for loading and against the consignee in the case of spotting for unloading irrespective of whether charges are prepaid or collect.

(g) Nothing in this item shall require a carrier to pickup or deliver spotted trailers at hours other than carrier's normal business hours. This shall not be construed as a restriction on carrier's ability to pick up or deliver spotted trailers at hours other than its normal business hours.

Section 2. Definitions. The following general definitions will apply when the below terms are used in this item:

(a) "Vehicle" means tractor-trailer combinations used for the transportation of property, where: (1) "Trailer" means mobile units used to transport property, and

(2) "Tractor" means a mechanically powered unit used to propel or draw a trailer or trailers upon the highways.

(b) "Loading" includes: (1) Furnishing of the Bill of Lading, forwarding directions, or other documents necessary for forwarding the shipment to the carrier, and

(2) Notification to the carrier that the vehicle is loaded and ready for forwarding.

(c) "Unloading" includes: (1) Surrender of the Bill of Lading to the carrier on shipments billed "To Order."

(2) Payment of lawful charges to the carrier when required prior to delivery of the shipment.

(3) Notification to the carrier that vehicle is unloaded and ready for forwarding, and

(4) Signing of delivery receipt.

(d) "Premises" means the entire property at or near the physical facilities of consignor, consignee, or other designated party.

(e) "Site" means a specific location at or on the premises of consignor, consignee, or other designated party.

(f) "Spotting" means the placing of a trailer at a specific site designated by consignor, consignee, or other party designated by them, detaching the trailer, and leaving the trailer in full possession of consignor, or other designated party unattended by carrier's employee and unaccompanied by power unit. Carrier will not move the trailer until such time as it has received notification, pursuant to section 3, that the trailer is ready for pickup. Consignor, consignee, or other designated party may shift the spotted trailer with its own power units at its own expense and risk for the purpose of loading or unloading.

Section 3: Computation of free time. (a) Commencement of spotting and free time: (1) Spotted trailers will be allowed 24 consecutive hours of free time for loading or unloading. Such period shall commence at the time of placement of the trailer at the site designated by consignor, consignee, or other party designated by them. Upon the expiration of the 24 hours of free time, detention charges will accrue as provided in section 4.

(2) When any portion of the 24-hour free time extends into a Saturday, Sunday, or holiday (national, State, or municipal), the computation of time for such portion shall resume at 12:01 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(3) Free time shall not begin on a Saturday, Sunday, or holiday (national, State or municipal), but at 8 a.m. on the next day which is neither a Saturday, Sunday, or holiday.

(4) When a trailer is both unloaded and reloaded, each transaction will be treated independently of the other, except that when unloading is completed, free time for loading shall not begin until free time for unloading has elapsed.

(b) Termination of spotting and notification: (1) Consignor, consignee, or other party designated by them shall notify carrier when loading or unloading has been completed and the trailer is available for pickup. The trailer will be deemed to be spotted and detention charges will accrue until such time as he receives notification. Notification by telephone if convenient and practical, otherwise by telegraph or mail shall be given by consignor, consignee, or other party designated by them at their own expense, to carrier or other party designated by carrier for the purpose of advising such carrier or other party that the spotted trailer has been loaded or unloaded and is ready for pickup. If notification is by telephone, carrier may require written confirmation.

(2) When a spotted trailer is changed to a vehicle with power at the request of consignor, consignee, or other party designated by them, the free time and detention charges will be applied as follows:

(i) If the change is requested and made before the expiration of free time for a spotted trailer, free time will cease immediately at the time the request is made, and detention charges for vehicles with power will immediately commence with no further free time allowed.

(ii) If the change is requested and made after the expiration of free time for a spotted trailer, free time and detention charges will be computed on the basis of a spotted trailer up to the time the change was requested. In addition thereto, the vehicle will immediately be charged detention for a vehicle with power with no further free time allowed.

(c) Prearranged scheduling: (1) Subject to the provisions of item *, and upon reasonable request of consignor, consignee, or others designated by them, carrier will without additional charge enter into a prearranged schedule for the arrival of trailes of spotting.

(2) If carrier's vehicle arrives later than the scheduled time, time shall begin to run from actual time spotting commences.

(3) If carrier's vehicle arrives prior to scheduled time, time shall begin to run from the scheduled time or actual time spotting commences, whichever is earlier.

Section 4. Charges. (a) General detention charges: After the expiration of free time as provided in section 3(a) of this item, charges for detaining a trailer will be assessed as follows:

	Charge
(1) For each of the first and second 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted)	$25

	Charge
(2) For each of the third and fourth 24-hour periods or fraction thereof (Saturdays, Sundays, and holidays excepted)	$35
(3) For the fifth and each succeeding 24-hour period or fraction thereof (Saturdays, Sundays, and holidays included)	50

(b) Delay in trailer pickup charge: No additional charge will be made for picking up trailers spotted under this item when such pickup can be performed within 30 minutes after arrival of driver and power unit at premises of consignor, consignee, or other party designated by them. When a delay of more than 30 minutes is encountered, detention charges for vehicles with power will commence from the time of arrival as specified in item*.

(c) Strike interference charge: When because of a strike of its employees, it is impossible for consignor, consignee, or other party designated by them to make available for movement by carrier any partially loaded, or empty trailers detained on their premises, a detention charge of $25 per day or fraction thereof, per trailer will be made following expiration of free time, Saturdays, Sundays, and holidays shall be included after the 4th day of charges.

Section 5. Records. A written record of the following information must be maintained by the carrier on all spotted trailers, and such record must be kept available at all times:

(a) Name and address of consignor, consignee, or other party at whose premises the trailer is spotted;

(b) Identification of spotted trailer;

(c) Date and time of arrival of the trailer for spotting;

(d) Date and time notification that the spotted trailer is ready for pickup was received by carrier;

(e) Date and time of arrival and departure of power unit for pickup;

(f) Total actual weight of shipment when pickup is delayed in excess of 30 minutes;

(g) The duration of any strike induced delay on the premises of consignor, consignee, or other designated party which resulted in carrier's inability to obtain the release of any trailer, and any actions taken to hasten the release;

(h) Whether trailers are spotted under a prearranged schedule;

(i) When trailers are spotted under a prearranged schedule, the date and time specified therefor.

NOTE.—For the purposes of this item the terms spotting and dropping are considered to be synonymous and are used interchangeably.

[FR Doc.76-15865 Filed 5-28-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 1]

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Consideration of New Program Areas

Interim regulations governing the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC Program) were published on January 12, 1976, in the FEDERAL REGISTER (41 F.R. 1743). Under the regulations, State agencies are required to recommend new local agencies to FNS for approval, giving first consideration to areas which wish to terminate Supplemental Food Programs (SFP) or Pilot Food Certificate Programs (FCP). Second consideration is required to be given to those areas which have the highest incidence of factors such as, but not limited to, infant mortality, low birth weight, and low income.

Early in the year State agencies were notified that SFP or FCP areas had to apply before April 1, 1976, in order to receive this priority. Since the priority policy is no longer in effect, the regulations are amended to delete the requirement of § 246.3(a)(5) that SFP or FCP areas get first consideration for new area approvals.

In § 246.3, paragraph (a)(5) is revised to read as follows:

§ 246.3 State agency application and operation.

(a) * * *

(5) The State agency shall ensure that programs begin in those areas which are most in need of supplemental food. As funds become available, the State agency shall recommend new local agencies to FNS for approval, giving first consideration to those areas which have the highest incidence of factors such as, but not limited to, infant mortality, low birth weight, and low income. Such local agencies shall have been determined by the State agency to be eligible to participate in the WIC Program.

* * * * *

Effective date: This amendment is effective as of April 1, 1976.

Signed at Washington, D.C., on May 27, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-16008 Filed 5-28-76;9:11 am]

PART 265—PILOT FOOD CERTIFICATE PROGRAM

Revocation of Part

State agencies were previously notified that, during the fiscal year 1976, the Pilot Food Certificate Program (FCP) could be incorporated into the Special Supplemental Food Program for Women, Infants and Children (WIC Program, 7 CFR Part 246). All three FCP areas are now in the process of converting to the WIC Program. The conversion shall be completed as soon as possible, but no later than June 30, 1976. No certificates shall be issued under the FCP after June 30, 1976, but, consistent with current FNS instructions, an additional 30 days is allowed subsequent to this date for acceptance and redemption of certificates by authorized retailers and wholesalers.

Accordingly, Part 265 of Chapter II of Title 7 of the Code of Federal Regulations is revoked, effective July 31, 1976.

(5 U.S.C. 301)

Dated: May 25, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-15911 Filed 5-28-76;8:45 am]

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

PART 916—NECTARINES GROWN IN CALIFORNIA

Exemptions

This document amends the Subpart—Rules and Regulations (7 CFR Part 916.102 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and the amended Marketing Order No. 916 (7 CFR Part 916) hereinafter referred to collectively as the "order." Said amendment permits a handler to handle not more than 100 pounds, net weight, of nectarines during any one day to any one person exempt from § 916.41 *Assessments*, § 916.52 *Issuance of regulations*, § 916.53 *Modification, suspension, or termination of regulations*, § 916.55 *Inspection and certification* and § 916.60 *Reports* and the requirements issued thereunder, provided that certian specified conditions and safeguards are met as hereinafter set forth.

The current minimum quantity exemption is contained in paragraph (b) of § 916.110 of the order and provides that not more than 50 pounds of nectarines may be handled during any day to any person or to the occupants of one vehicle, exempt from inspection and certification requirements of the order. This amendment would exempt nectarines handled in quantities of 100 pounds or less from assessment, minimum grade, size, container and pack, and reporting requirements which would otherwise be applicable to such shipments of nectarines under the order in addition to the current exemption from inspection and certification.

Provisions of this amendment prescribe safeguards and minimum quality and size requirements for nectarines to assure shipment of mature and acceptable-quality fruit which satisfies the demand of the particular market outlet. This amendment is designed to maintain orderly marketing conditions in the interest of consumers and producers.

The order regulates the handling of nectarines grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendment was recommended by the Nectarine Administrative Committee, which is established pursuant to the order to administer the terms and provisions thereof.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C.) because (1) shipments of nectarines are now in progress; (2) handlers who so desire should be afforded the earliest opportunity to handle nectarines pursuant to this recommended

amendment; (3) information on the minimum quantity exemption has been disseminated to handlers of nectarines; and (4) no useful purpose will be served by postponing the effective date of such amendment.

It is hereby further found that amendment of said rules and regulations, as hereinafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act.

Revise the title of § 916.110 and revise paragraph (b) thereof to read as follows:

§ 916.110 Exemptions.

* * * * *

(b) *Minimum quantities.* Notwithstanding any other provision of this section, nectarines may be handled without regard to the provisions of §§ 916.41, 916.52, 916.53, 916.55, and 916.60 under the following conditions:

(1) Such nectarines meet the grade requirements set forth in Article 30 of the Food and Agriculture Code of California.

(2) Such nectarines measure at least 2 inches in diameter, ring measurement, except that not to exceed 5 percent of the nectarines in any container may be smaller than 2 inches.

(3) Such nectarines are for home use and not for resale.

(4) The net weight of such nectarines to any one person during any one day does not exceed 100 pounds.

(5) Such nectarines are handled by the person who produced them; and the handling takes place (i) on the premises where grown, or (ii) at a packinghouse, or retail stand nearby which is operated by said handler.

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

Dated, May 26, 1976, to become effective May 28, 1976.

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

[FR Doc.76–15860 Filed 5–28–76;8:45 am]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Exemptions

This document amends the Subpart—Rules and Regulations (7 CFR Part 917.100 *et seq.*) currently in effect pursuant to the applicable provisions of the amended marketing agreement and the amended Marketing Order No. 917 (7 CFR Part 917; 41 FR 17528) hereinafter referred to collectively as the "order." Said amendment permits a handler to handle not more than 100 pounds, net weight, of plums, and not more than 200 pounds, net weight, of peaches during any one day to any one person exempt from § 917.37 *Assessments*, § 917.41 *Issuance of Regulations*, § 917.42 *Modification, suspension, or termination of regulations*, § 917.45 *Inspection and Certification* and § 917.50 *Reports* and the requirements issued thereunder, provided that certain specified conditions and safeguards are met as hereinafter set forth.

The current minimum quantity exemption is contained in paragraph (b) of § 917.143 of the order and provides that not more than 50 pounds of plums may be handled during any day to any person or the occupants of one vehicle, exempt from inspection and certification requirements of the order. No minimum quantity exemption is currently provided for shipments of peaches under the order. The amendment therefore increases the quantity of plums which may be handled under said exemption provisions and establishes a maximum quantity of peaches which may be so handled. This amendment would exempt plums handled in quantities of 100 pounds or less from assessment, minimum grade, size, container and pack, and reporting requirements which would otherwise be applicable to such shipments of plums under the order in addition to the current exemption from inspection and certification. Such exemptions would also apply to peaches handled in quantities of 200 pounds or less.

Provisions of this amendment prescribe safeguards and minimum quality and size requirements for plums and peaches to assure shipment of mature and acceptable-quality fruit which satisfies the demand of the particular market outlet. This amendment is designed to maintain orderly marketing conditions in the interest of consumers and producers.

The order regulates the handling of fresh pears, plums, and peaches grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendment was recommended by the Plum and Peach Commodity Committees which are established pursuant to the order to administer the terms and provisions thereof.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the Federal Register (5 U.S.C.) because (1) peach shipments are currently underway and plum shipments are expected to begin on or about May 23, 1976; (2) handlers who so desire should be afforded the earliest opportunity to handle peaches and plums pursuant to this recommended amendment; (3) information on the minimum quantity exemptions has been disseminated to handlers; and (4) no useful purpose will be served by postponing the effective date of such amendment.

It is hereby further found that amendment of said rules and regulations, as hereinafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act.

(1) Revise the title of § 917.143 and revise paragraph (b) thereof to read as follows:

§ 917.143 Exemptions.

* * * * *

(b) *Minimum quantities.* Notwithstanding any other provision of this section, plums and peaches may be handled without regard to the provisions of §§ 917.37, 917.41, 917.42, 917.45 and 917.50 under the following conditions:

(1) Such plums and peaches meet the grade requirements set forth in Articles 38 and 34 of the Food and Agriculture Code of California.

(2) Such plums and peaches meet the following applicable minimum diameter requirements as measured by a rigid ring except that not to exceed 5 percent of the plums and peaches in any container may be smaller than such minimum diameters:

(i) Plums shall measure not less than $1\frac{13}{16}$ inches in diameter.

(ii) Peaches handled prior to June 16 of any crop year shall measure not less than 2 inches in diameter.

(iii) Peaches handled on or after June 16 of any crop year shall measure not less than $2\frac{1}{4}$ inches in diameter.

(3) Such plums and peaches are for home use and not for resale.

(4) The shipment does not exceed 100 pounds, net weight, of plums and 200 pounds, net weight, of peaches to any one person during any one day.

(5) Such plums and peaches are handled by the person who produced them; and the handling takes place (i) on the premises where grown, or (ii) at a packinghouse or retail stand nearby which is operated by said handler.

§ 917.141 [Removed]

(2) Delete § 917.141 *Exemptions.*

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

Dated, May 24, 1976, to become effective May 28, 1976.

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

[FR Doc.76–15744 Filed 5–28–76;8:45 am]

PART 953—POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

This document authorizes the Southeastern Potato Committee to spend not more than $11,125 for its operations during the fiscal period ending March 31, 1977, and to collect one-third cent ($0.0033) per hundredweight on assessable potatoes handled by first handlers under the program.

The committee is the administrative agency established under Marketing Agreement No. 104 and Order No. 953, both as amended, regulating the handling of potatoes grown in designated counties of Virginia and North Carolina. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Notice was published in the April 30, 1976, FEDERAL REGISTER (41 FR 18090) regarding the proposal. It afforded inter-

ested persons an opportunity to submit written comments not later than May 17, 1976. None was received.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period.

The regulation follows:

§ 953.213 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred during the fiscal period ending March 31, 1977, by the Southeastern Potato Committee for its maintenance and functioning will amount to $11,125.

(b) The rate of assessment to be paid by each handler in accordance with the amended Marketing Agreement and this part shall be one-third cent ($0.0033) per hundredweight of potatoes handled by him as the first handler thereof during the said fiscal period: *Provided*, That potatoes for canning, freezing, and other processing shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section shall have the same meaning as when used in the said amended marketing agreement and this part.

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

Dated: May 24, 1976.

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

[FR Doc.76–15743 Filed 5–28–76;8:45 am]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

Expenses and Rate of Assessment

This document authorizes the National Potato Promotion Board to spend not more than $2,109,000 for its operations during the fiscal period beginning July 1, 1976, and to collect one cent ($0.01) per hundredweight on assessable potatoes handled by designated handlers to defray expenses.

The Potato Board is the administrative agency established under the Potato Research and Promotion Plan (7 CFR Part 1207). This program is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

Notice was published in the May 6 FEDERAL REGISTER (41 FR 18679) regarding the proposals. It afforded interested persons an opportunity to submit written comments not later than May 20, 1976. None was received.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

The regulation follows:

§ 1207.405 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1976, and ending June 30, 1977, by the National Potato Promotion Board for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $2,109,000.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the Plan shall be one cent ($0.01) per hundredweight of assessable potatoes handled by him as the designated handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

(Title III of P.L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627).

Dated May 25, 1976 to become effective July 1, 1976.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.76–15746 Filed 5–28–76;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposal To Determine 2 Birds, 1 Lizard, 3 Snails, and 1 Insect, all Indigenous to the California Channel Islands, To Be Endangered Species

The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C., 1531–1543, 87 Stat. 884: hereinafter the Act), which would determine 7 U.S. animals to be Endangered Species. These species, which are all members of the same ecosystem on San Clemente Island, California, are as follows: San Clemente Loggerhead Shrike (*Lanius Ludovicianus mearnsi*), San Clemente Sage Sparrow (*Amphispiza belli clementae*), Island Night Lizard (*Klauberina riversiana*), Wreathed Island Snail (*Micrarionta redimita*), Horseshoe Snail (*Micrarionta intercisa*), Gabb's Snail (*Micrarionta gabbi*), and San Clemente Coenonycha (*Coenonycha clementina*). The Island Night Lizard is also found on the nearby San Nicolas and Santa Barbara Islands.

BACKGROUND

Section 4(a) of the Act states:

> General.—The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Overutilization for commercial, sporting, scientific or educational purposes;
>
> (3) Disease or predation;
>
> (4) The inadequacy of existing regulatory mechanisms; or
>
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

On June 1, 1973, the Service entered into a contract with the Sierra Club, San Francisco, California, to investigate the status of California land snails. A final report dated August 25, 1975, contained information indicating that the three land snails proposed herein, among others, were Endangered Species as provided for by the Act.

On March 20, 1974, the Service entered into a contract with the James Ford Bell Museum of Natural History, University of Minnesota, Minneapolis, to investigate the status of the Island Night Lizard. During October 1974 a final report was received and contained data which suggested that the Island Night Lizard was an Endangered Species as provide for by the Act. A third contract report submitted by the Point Reyes Bird Observatory, Bolinas, California, contained data supporting a proposed Endangered status for the San Clemente Loggerhead Shrike and the San Clemente Sage Sparrow.

Finally, information supplied by a staff member of the California Department of Food and Agriculture, Sacramento, California, indicates that a bettle, the San Clemente Coenonycha, is Endangered as defined by the Act.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein. Since the threats faced by each species are similar they are described under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the San Clemente Loggerhead Shrike, San Clemente Sage Sparrow, Island Night Lizard, Wreathed Island Snail, Horseshoe Snail, Gabb's Snail, and San Clemente Coenonycha (beetle) are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* All of the proposed species occur on San Clemente Island, Los Angeles County, California. In addition, the Island Night Lizard occurs on San Nicolas and Santa Barbara Islands, Los Angeles County, California.

On San Clemente Island the habitat of each of the species herein proposed has been severely degraded by the grazing of introduced animals not native to the island, particularly goats, swine, and black-tailed deer.

Prior to the introduction of these animals to the island by man, San Clemente was covered with native woodland and sagebrush scrub habitat. Now, due in large part to the depredations of the introduced animals, woodland is almost entirely absent and sagebrush scrub occurs only in a few rugged, relatively inaccessible canyons. In addition, removal of native vegetation by the introduced animals has resulted in top soil and litter erosion which further degrades the habitat upon which the survival of the species herein proposed is dependent. The extinction of all these species is likely in the foreseeable future, as their population levels have become critically low due to habitat degredation caused, among other things, by introduced animals.

Population levels of the Island Night Lizard, although relatively high on San Clemente Island, are critically reduced on San Nicolas and San Barbara Islands due to habitat alterations caused by farming, fire, grazing by introduced animals, and invasion by exotic plants which have occurred on one or both islands.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not known to be applicable to any of the subject species.

3. *Disease or predation.* This factor may apply to the San Clemente Loggerhead Shrike, San Clemente Sage Sparrow, and Island Night Lizard. Depredation by feral housecats (*Felis catus*) on San Clemente Island is thought to be a factor in the reduced population levels of these three birds.

4. *The inadequacy of existing regulatory mechanisms.* The San Clemente Loggerhead Shrike and the San Clemente Sage Sparrow are protected by the Migratory Bird Treaty Act and by California State law. The Island Night Lizard population on Santa Barbara Island is provided legal protection by its existence in the Channel Islands National Monument (U.S.N.P.S.). There currently exist no regulations pertaining to the protection and conservation of the other 4 species for the fact that access to their habitat is controlled by the U.S. Navy.

5. *Other natural or man-made factors affecting their continued existence.* Each species herein proposed faces the additional threat of being deleteriously affected by the further introduction of exotic species to their habitats. Competition from species with similar ecological adaptations is the most serious of these threats. Since native wildlife populations, particularly those peculiar to island ecosystems such as those of the California Channel Islands, are often affected detrimentally by the accidental or intentional introduction of nonnative species, any further such introductions should be prevented by all possible means.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Part 17 of Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. The regulations referred to above, which pertain to Endangered Species, are found at Section 17.21 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.* (a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

transporting an illegally taken whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane, the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commerical activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Regulations published in 50 C.F.R. §§ 17.22–17.23 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstance. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

The determination herein proposed would also make each of the subject species eligible for the consideration provided by Section 7 of the Act. That Section reads as follows:

INTERAGENCY COOPERATION

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no "Critical Habitat" has yet been determined for any of the seven subject species, the other provisions of Section 7 will be applicable.

No determination of "Critical Habitat" presently is proposed for any of the species named herein. However, the Director recognizes that loss of habitat is the principal threat faced by these species and may propose the determination of Critical Habitat for some or all in the near future. A further elaboration of the concept of Critical Habitat was published in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The Act requires inclusion of the "* * * scientific and common name or names, if any, * * *" upon the list of those species determined to be Threatened or Endangered. No generally recognized common name exists for the snails and beetle herein discussed. In such cases common names have been assigned to the animal. As usage of common names varies considerably, it should be recognized that only the scientific names carry legal significance. Comments and data toward improving the accuracy of common names are requested.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of the State of California with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. The existence of any other living individuals of these species;

2. Biological or other relevant data concerning any threat (or the lack thereof) to any species included on the following list;

3. The location of and reasons why any habitat of any species named herein should be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

4. Improved scientific or common names for any species on the following list;

5. Additional information concerning the range and distribution of any of these species.

Final promulgation of these proposed rules will take into consideration the comments and any additional information received by the Director and such communications may lead him to withdraw all or part of the proposal or to adopt final rules that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal, is on file in the Service's Office of Endangered Species and International Activities, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined there during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments and other documents, preferably in triplicate, to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O.

Box 19183, Washington, D.C. 20036. All revelant comments and materials received no later than August 2, 1976, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Dated: May 26, 1976.

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

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11(h) by adding the following in alphabetical order:

§ 17.11 Endangered and threatened wildlife.

* * * * * *

(h) * * *

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion of range where threatened or endangered			
(a) Molluscs							
(1) Snail, wreathed island	*Micrarionta redimita*	Not available	San Clemente Island, Los Angeles County, Calif.	Entire	E		Not available.
(2) Snail, horseshoe	*Micrarionta intercisa*	do	do	do	E		Do.
(3) Snail, gabb's	*Micrarionta gabbi*	do	do	do	E		Do.
(b) Insects							
(4) Beetle, San Clemente Coenonycha.	*Coenonycha clementina*	do	do	do	E		Do.
(c) Birds							
(5) Shrike, San Clemente loggerhead.	*Lanius ludovicianus mearnsi*	do	do	do	E		Do.
(6) Sparrow, San Clemente sage	*Amphispiza belli clementae*	do	do	do	E		Do.
(d) Reptiles							
(7) Lizard, island night	*Klauberina riversiana*	do	San Clemente Island, Santa Barbara Island, San Nicolas Island, Los Angeles County, Calif.	do	E		Do.

[FR Doc.15789 Filed 5-28-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 915]

AVOCADOS GROWN IN SOUTH FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for the 1976–77 Fiscal Year and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expense of $167,500, a rate of assessment of $0.175 per bushel of avocados, and the carryover as a reserve of unexpended funds to support the activities of the Avocado Administrative Committee for the 1976–77 fiscal year under Marketing Order No. 915.

Consideration is being given to the following proposal submitted by the Avocado Administrative Committee established under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida, 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.

(1) That the expenses which are reasonable and likely to be incurred by the Avocado Administrative Committee, during the period from April 1, 1976, through March 31, 1977, will amount to $167,500;

(2) That the rate of assessment for such period, payable by each handler in accordance with § 915.41 be fixed at $0.175 per bushel of avocados; and

(3) Unexpended assessment funds in the amount of approximately $112,223, which are in excess of expenses incurred during the fiscal year ended March 31, 1976, shall be carried over as a reserve in accordance with §§ 915.42 and 915.205 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than June 15, 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: May 24, 1976.

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

[FR Doc.76-15742 Filed 5-28-76;8:45 am]

[7 CFR Part 981]

[Docket No. AO-214-A5]

ALMONDS GROWN IN CALIFORNIA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), (hereinafter referred to collectively as the "order") regulating the handling of almonds grown in California. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Sacramento, California, on November 18 and 19, 1975, pursuant to notice thereof issued on November 6, 1975.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, on April 9, 1976 (41 FR 15341) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. An exception was filed by one person.

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

1. In Material Issue 1(g), two new paragraphs are added following paragraph 2.

2. In Material Issue 6, two new paragraphs are added following paragraph 4 and paragraph 5 is revised.

Material Issues. The material issues of record are as follows:

(1) Revising the definition of (a) "almonds", (b) "edible kernel", (c) "inedible kernel", (d) "handler", (e) "handler carryover", (f) "trade demand", and (g) "Control Board";

(2) Establishing quality controls by providing for (a) incoming determination of inedible almonds in grower deliveries to handlers and disposition of these almonds, and (b) the authority to

prescribe outgoing minimum quality inspection requirements for almonds;

(3) Changing the bases for establishing salable and reserve percentages;

(4) Revising the provisions for a handler's disposition of almonds for reserve credit;

(5) Deleting the bonding provision for reserve almonds;

(6) Clarifying the treatment of collected assessments attributable to creditable advertising with respect to refunds and operating reserve;

(7) Revising the provision pertaining to the varietal shelling ratios for unshelled almonds;

(8) Changing the composition of the Board and the nomination procedures;

(9) Making such changes in the order as may be necessay to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

(1) (a) The definition of "almonds" as contained in § 981.4 of the marketing agreement and order (hereinafter, in this text of the *Findings and Conclusions*, collectively referred to as the "order") should be changed by redefining "almonds" to mean (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California, and for the purposes of research includes almond shells and hulls. Currently, production and marketing research is permitted under § 981.41 for activities which are designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of almonds. Research to find new and more profitable uses for, or better methods of, handling shells and hulls should be permitted under the order. Currently, hulls are used mainly for livestock feed, while shells have some use as roughage in livestock feed and for fireplace briquettes. Shells and hulls together weigh approximately three times the kernelweight of almonds. Since the annual production of almonds on a kernelweight basis is about 200 million pounds, a sizable quantity of shells and hulls is produced annually and represents a significant economic factor. The testimony is that grower returns could be improved if more profitable outlets or better methods of handling can be found for shells and hulls.

The proposal to revise the definition of almonds published in the Notice of Hearing contained the words "and for the purposes of § 981.41 includes almond shells and hulls". However, testimony indicated that the Board should not undertake any marketing promotion including advertising activity for shells and hulls, and therefore those words should not be included in § 981.4. Also, no testimony was given in support of the proposal to revise § 981.41 by adding, "For the purposes of this section, the term almonds includes almond shells and hulls". Therefore, the proposal should not be adopted.

(b) Section 981.7 currently defines the term "edible kernel". The definition of this term should be revised to mean a kernel, piece, or particle of almond kernel that is not inedible. This change should be made in conjunction with the revision of the definition of the term "inedible kernel" in § 981.8.

(c) Section 981.8 currently defines the term "inedible kernel" to mean that which is not an edible kernel. As discussed in Material Issue 2, the order should provide for the control of inedible almonds and it is therefore necessary that the term "inedible kernel" be redefined so that handlers may know which defective almonds will be scored as inedible kernels. The term "inedible kernel" should mean a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the U.S. Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing. Section 981.8 should also authorize the Board, with the approval of the Secretary, to modify the definition of "inedible kernel". However, the Board should submit any recommendation for modification to the Secretary not later than August 1 of any crop year.

This definition would be consistent with widely accepted industry practice. Handlers have been picking out certain almonds with defects which would be scored as damaged under the U.S. Standards. These defects include (1) gum, covering one-tighth of the surface or more, (2) brown spot in an aggregate greater than a one-eighth inch circle, and (3) shrivel where the pellicle is less than three-fourths filled. Testimony was also presented that handlers have been scoring embedded dirt not easily removed as a defect. The scoring of these defects in receipts from growers has become common and the almonds affected with these defects have been excluded from handlers' redetermination weights by the Board. Under the U.S. Standards, mold is included in the scoring for damage, but this defect was not included in the listing of the defects comprising damage published in the Notice of Hearing. Testimony was presented that this defect should be included.

During the blanching process, the skin, or pellicle, covering the kernel is removed. A question was raised at the hearing whether these skins would be considered kernels and hence were within the proposed definition. The proponents indicated that it was not the intent of the testimony to consider skins as edible or inedible almonds. In order to clarify the matter, proponents proposed a sentence to be included in the definition of "inedible kernel" indicating that when the skin is removed from the kernel, it shall not be considered as a piece or particle of almond kernel. However, this sentence is unnecessary. It is clear from the testimony that detached skins are not kernels and do not fall within the meaning of edible or inedible kernels.

In order to permit the industry to update the definition of "inedible kernel" on the basis of operating experience, or to cope with marketing problems which the industry may encounter in the future, the Board, with the approval of the Secretary, should be authorized to modify that definition. Any modification would be by rulemaking procedure. So that any modification may be applied uniformly throughout a crop year, and to avoid any inequities that may result if changes are made during a crop year, the Board should submit its recommendation on modification to the Secretary not later than August 1 of any crop year. This would provide time to make the modification effective before almonds are received by handlers from growers in volume, and should afford the industry ample time to make any necessary preparations. August 1 should be used as the deadline date because, not later than that date, the Board must furnish the Secretary with certain estimates and recommendations to aid the Secretary in fixing the salable and reserve percentages for the crop year. The Board generally meets the latter part of July to formulate these estimates and recommendations. Any recommendation to modify the definition of "inedible kernel" should be made at this meeting. However, this limitation should not preclude the Secretary from making any necessary modification during a crop year. For example, in the event the applicable definitions in the U.S. Standards are changed after August 1, it may be desirable to retain the definitions applicable at the beginning of the season in order to achieve the equity and uniformity testified to at the hearing.

(d) The definition of "handler" in § 981.13 should be revised to exclude from the definition any person receiving almonds from growers and other persons and delivering these almonds to a handler. The persons to be excluded from the definition are referred to in the industry as accumulators. Currently, these persons are regulated under the order as handlers. However, when they transfer their receipts to another handler by means of interhandler transfers pursuant to § 981.55 they are relieved of all order requirements except those relating to reporting receipts and interhandler transfers. The evidence is that this reporting is not essential for compilation of industry data because that data also appear in the reports of the handler who receives the almonds, processes them, and places them into trade channels. Moreover, under another proposal, discussed in Material Issue 2, handlers would remove and dispose of inedible kernels in excess of a given percentage in the incoming receipts. Accumulators do not process almonds nor do they have facilities to remove inedible kernels.

An accumulator buys almonds in small lots from spare-time growers or gleaners. He accumulates these receipts and delivers them to a processing handler. Gleaners are persons, other than growers, who gather almonds from such sources as backyard or roadside trees, or from

orchards after normal harvesting has been completed. The term "gleaners" was included in the proposed definition appearing in the Notice of Hearing, although the term itself was not defined. The term "other persons" should be used in lieu of "gleaners".

Accumulators and gleaners should not be excluded from the definition of "handlers" on any almonds which they do not deliver to a handler. If they place any almonds into the current of commerce within the meaning of § 981.16, they should be handlers for those almonds and subject to order requirements.

As proposed in the Notice of Hearing, the exclusion would have been applicable to almonds delivered to "a handler of record with the Board". However, the evidence is that the exclusion would extend to almonds delivered to any handler, whether or not the handler was then on record with the Board. The order applies to all almond handlers and regulates their activities, whether or not they are on record with the Board at any given time, and it is the obligation of the Board to know at all times who is handling almonds. Therefore, the term "on record with the Board" is unnecessary and should not be included in the definition.

(e) The definition of "handler carryover" in § 981.20 should be revised by deleting the words "(except those held as certified reserve)" to conform with the 1970 amendment of the order (35 FR 11372). These words no longer are applicable. After that amendment, physical setaside, including inspection and certification, of reserve almonds upon withholding was unnecessary. The Notice of Hearing included one proposal to delete the words "for their own accounts" in § 981.20. However, no testimony was presented to support this deletion, and therefore these words should be retained.

(f) The definition of "trade demand" in § 981.21 should be revised so that in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds. The term "trade demand" is used in computing salable and reserve percentages for any crop year. Currently, trade demand means the quantity of almonds which will be acquired by the domestic trade in the United States, Puerto Rico and the Canal Zone. For the reasons discussed in Material Issue 3, the Board should be authorized to include export outlets when estimating trade demand for certain crop years, when arriving at its estimates and recommendations required in § 981.49.

(g) The name of the "Almond Control Board" should be changed to the "Almond Board of California." Section 981.22 should provide that "Board" means the "Almond Board of California" which is the administrative agency established by the order. Also, the center caption preceding § 981.30 should be revised to read "ALMOND BOARD OF CALIFORNIA", and "Control" should be deleted wherever it appears before "Board" in the order.

The word "Control" is objectionable to some, and this change should enhance the value of the Board's name in public relations and consumer education activity. The Board and the industry should be permitted to use previously printed stationery and forms bearing the name "Almond Control Board". This would avoid loss and permit a phasing out of the name "Almond Control Board".

The exception was filed by the Board. It stated that § 981.22, as recommended to be amended is not consistent with the evidence of record because the section fails to state that the new name, "Almond Board of California," is synonymous with 'Almond Control Board." The Board contended that the names should be made synonymous for administrative and communication continuity. The Board expressed concern that failure to do so would enable persons to contend that an unqualified name change means they cannot be held liable for falsifying documents, thereby creating problems in enforcing the certifications pursuant to 18 U.S.C. 1001. The Board also contended that the statement appearing in the recommended decision implying that use of forms bearing the name "Almond Control Board" should be permitted, has no merit unless authority is granted in the order.

The certifications in question appear on various documents submitted to the Board. These documents are authorized by the order. In general, the persons executing the documents certify to the Board and the Secretary of Agriculture as to the completeness and correctness of the information being submitted. These certifications are to the agency established under the order for program operations, as well as to the Secretary, and thus whether the certifications on those documents refer to the Almond Control Board or the Almond Board of California is immaterial. Moreover it is unnecessary to prescribe specific authority in the order for the Board to use up forms bearing "Almond Control Board" in the event the Board's name is changed.

(2) A new § 981.42 should be included in the order to authorize certain methods of quality control. Until now, this authority was deemed unnecessary to ensure a quality product to consumers. Most almond sales have been to industrial users who buy on specifications and, in turn, must market a product acceptable to consumers. However, as a result of increased production, it was testified that handlers will have to sell more of the almond crop directly to consumers. These sales will not be according to specification buying of industrial users. Also, the percentage of defective kernels in the crop has increased in recent years, and scrutiny by regulatory agencies of the quality of food offered consumers is increasing.

Therefore, § 981.42 should require handlers to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety received by him, and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernelweight received should constitute a weight obligation to be accumulated in the course of processing and should be delivered to the Board, or to Board accepted crushers, feed manufacturers, or feeders. In order to achieve uniform determinations, each handler should be required to use the inspection agency defined in § 981.17 to sample, analyze, and report, either directly or through handler personnel working under inspection agency guidance, the percentage of inedible kernels in each variety delivered by each grower. Inedible kernels would be those defined in § 981.8, as discussed in Material Issue 1(c).

The sampling and inspection requirements should be applicable to all almonds received by a handler, including the deliveries of a handler's own production. A person engaged in the commercial production of almonds generally will make several deliveries, and each delivery may be made up of more than one variety. Each of these deliveries should be sampled, and the inedible kernel content of each variety determined by, or under the supervision of, a third party. Testimony was presented that this determination is not new because most handlers now sample each delivery to provide the basis for payments to growers. However, handlers should be permitted to accumulate small quantities received as door lots until there is a quantity large enough to permit sampling and a determination of the inedible kernel content in the accumulated receipts.

Inedible kernels accumulated in the course of processing should be delivered to the Board, or to Board accepted oil crushers, feed manufacturers, or feeders. This change from wording proposed in the Notice of Hearing should be made to recognize that, in a handler's plant, inedible kernels are accumulated from blanching, manufacturing processes, and other processes. The two percent level should provide a practical means of requiring inedible kernels to be accumulated by each handler to satisfy his weight obligation. Requiring handlers to meet this obligation should ensure that each handler's outgoing shipments of almonds are relatively free of almonds with serious damage, and the number of kernels with minor damage should be minimal.

The inedible kernel content of receipts should be determined by variety so that those varieties that normally have an inedible kernel content of less than two percent cannot be used to cancel out the obligation of the higher testing varieties. For example, 100,000 pounds of variety X with one percent inedible kernels should not be added to 100,000 pounds of variety Y with three percent inedible kernels to produce an average of two percent, and hence no disposition obligation. On the other hand, the evidence is that it would not be practical or necessary to require a varietal or qualitative determination of the material disposed of in satisfaction of an obligation. The

objective is to remove inedible kernels from the pack and this would be achieved by totalling all of a handler's obligations and allowing him to satisfy the total from pickouts, rejects, and any other material unsuitable for human consumption. While it is conceivable that some edible almonds could be included in material delivered in satisfaction of an obligation, it was testified that the economics of delivering $1.00 per pound material to a $.10 per pound outlet would keep this to a minimum. However, a handler may receive a lot which is so poor that the entire lot must be dumped. In that case, the weight of the entire lot should be credited to the handler.

Since disposition would be to crushers, feed manufacturers, or feeders acceptable to the Board, the word "approved" appearing in the Notice of Hearing should be changed to "accepted". This would be consistent with current procedures providing for establishment of a list of users acceptable to the Board.

Section 981.42 should also authorize the Board, with the approval of the Secretary, to change the two percent exemption for any crop year, to authorize additional outlets, and to establish rules and regulations as may be necessary or incidental to the administration of the provision. This would include, but not be limited to, the method of determining inedible kernel content and satisfaction of the disposition obligation. This would permit timely adjustment of the provision to changing conditions, improvement in the procedures, or correction of any deficiencies or errors that may develop in its application.

It is possible that some small-sized handlers may not, in the course of processing beyond the removal of inedible kernels, generate sufficient material to meet the computed obligation. For example, some handlers may not blanch almonds or process them into manufactured items. Thus, § 981.42 should authorize the Board, for good cause, to waive portions of the obligation for handlers not generating inedible kernels from such sources as blanching or manufacturing. "Good cause" should be proof that the handler attempted to meet his obligation but was unable to because of nonrecoverable losses in shelling or for some other reason. Also, many accumulations of inedible kernels will have varying amounts of shell or other foreign material comingled with the almond meat. In order to give credit for the weight of almond meat in each disposition, the meat content should be determined by procedures prescribed by the Board, and this weight reported to the Board. The quantity disposed of should be deducted from the handlers receipts.

Section 981.42 should also provide authority for outgoing quality inspection. The evidence is that this is intended as a contingency for use only if the incoming regulation should prove inadequate for industry needs. For example, other regulatory agencies may establish regulations which would apply to packed almonds or almond products. This authority should provide that for any crop year the Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to almonds to be handled or to be processed into manufactured products, as will contribute to orderly marketing or be in the public interest. Section 981.42 should also provide that in a crop year when these requirements are in effect, no handler shall handle or process almonds unless they meet the applicable requirements as evidenced by certifications acceptable to the Board.

Testimony was presented that the Board's interest would be only in setting a minimum level of quality for almonds to be handled as almonds or processed into almond products. Handlers should be permitted to sell almonds which equal or exceed the minimum quality. It was also testified that the minimum quality could apply to a quality factor, such as the level of aflatoxin, which the inspection agency defined in § 981.17 ordinarily does not test. In that case, the determination would have to be made by the Department or a laboratory approved by the Department. On the other hand, if the outgoing regulation would require a determination of such factors as the inedible kernel content, this determination should be made by the inspection agency.

In connection with any outgoing regulation, the Board, with the approval of the Secretary, should be authorized to establish rules and regulations necessary and incidental to the administration of that regulation.

(3) Section 981.47 provides the method for establishing salable and reserve percentages by the Secretary. In order to aid the Secretary in fixing these percentages, § 981.49 requires the Board to submit certain estimates and recommendations to the Secretary not later than August 1. In computing prior percentages, estimates of total production were used. However, data show that the marketable quantities packed out by handlers are as much as five percent less than the quantities delivered by growers. About 40 percent of the weight loss is due to the removal of defective (i.e., inedible) kernels, which are disposed of in oil or feed outlets. The balance is due to moisture loss during storage and to processing losses, such as shelling and conversion into cut forms. The evidence is that an estimate of the marketable quantity should be used by the Board and the Secretary in computing salable and reserve percentages. Therefore, "marketable" should be inserted before "almonds" in the third sentence of § 981.47 and in § 981.49(a). The term "marketable" should exclude that portion of the production which is received by a handler but is not handled by him or any other handler. However, in some crop years, almonds diverted to oil or feed may be eligible for reserve satisfaction, as discussed in Material Issue 4. For the purpose of computing salable and reserve percentages in those crop years, an estimate of the quantity to be diverted to those outlets should be included with the marketable quantity in the total quantity allocated to trade demand and other outlets. This total quantity should be referred to as the allocation quantity.

As discussed in Material Issue 1(f), the term "trade demand" should be revised so that in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds in its estimate of trade demand. As indicated in that issue, trade demand currently means the quantity of almonds which will be acquired by the domestic trade. This meaning was satisfactory so long as the salable quantity (i.e., domestic shipments) constituted the major portion of the annual movement, and f.o.b. prices, point of origin, for salable almonds were higher than for almonds exported for reserve credit. However, in four of the six crop years beginning with the 1969–70 crop year, the quantity sold in export exceeded domestic sales. No reserve percentages have been in effect for the last three crop years, including the 1975–76 crop year, and there have been no established differences between domestic and export (f.a.s.) prices. During these years, it was unnecessary to establish a reserve percentage to allocate part of the supply to the export market.

However, production of almonds, both in California and worldwide, is increasing, and some form of volume regulation will be necessary to achieve price stability and develop new uses and outlets, including new geographical areas. Testimony was that a reserve percentage of five to 10 percent may be enough to accomplish this. However, the formula for computing the salable and reserve percentages does not permit this because domestic needs (i.e., salable almonds) constitute about 50 percent or less of the supply subject to regulation, and thereby resulting in a reserve percentage of about 50 percent or more. So that the industry can establish a modest reserve percentage, the order should permit exports to be included in the trade demand estimate.

Testimony was also presented that exports should not be removed as a reserve outlet permanently because the marketing outlook for California almonds is unclear. It may be necessary again for the California almond industry to compute the percentages under the current provisions of the order if marketing conditions in export necessitate resumption of the use of minimum export prices.

To conform with the recommendation to permit the trade demand estimate to include domestic and export sales, the last sentence in § 981.66(d) should provide that the Board may dispose of or authorize the disposition of, reserve almonds in noncompetitive outlets in any crop year in which the quantity exceeds that needed for export or the export quantity is included in salable almonds. Also, the title of paragraph (c) of § 981.66 should be revised by substituting

the word "salable" instead of "domestic". When exports are part of the salable supply, there would be no export portion in the reserve.

The third sentence in § 981.47 should be revised so that the correct quantity of carryover on June 30 of a crop year available to satisfy trade demand in the succeeding crop year would be used to compute the salable (and hence, also the reserve) percentage for that year. As discussed in Material Issue 1(e), certification of reserve no longer was necessary after the 1970 amendment of the order. Since then, all carryover has been construed as meeting the definition of "handler carryover". However, if part of the carryover as of June 30 represents unexported reserve obligation, this quantity is not available to satisfy domestic trade demand in the succeeding crop year. Or, as discussed in this Material Issue, if export tonnage is included in trade demand for a crop year, the unexported reserve obligation, from the previous year, would satisfy part of that trade demand. Consequently, there should be flexibility in applying the formula for computation of the salable percentage so that all, or a portion, of the handler carryover, is used.

Under the proposal, four situations are possible when computing the salable percentage: (1) There is a carryover of unexported reserve tonnage and trade demand of the new crop year is to be domestic only; (2) there is a carryover of unexported reserve tonnage and the trade demand of the new crop year is to be both domestic and export; (3) there was no reserve in the prior crop year, the carryover is all salable but a large quantity is committed to export, and the trade demand of the new crop year is to be domestic only; and (4) the carryover situation is the same as (3), except that trade demand is to be both domestic and export.

It was testified that when trade demand of the new crop year is to be domestic only, the unexported reserve or commitments to export would not be available to satisfy trade demand and hence should be subtracted from the carryover. However, all carryover should be available for trade demand when both domestic and export requirements are included in trade demand.

The third sentence of § 981.47 should therefore be modified, in part, to provide, that in establishing the salable and reserve percentages, the Secretary shall give consideration to the ratio of the estimated trade demand, either domestic or domestic plus export less the handler carryover available to satisfy trade demand plus the desirable handler carryover at the end of the crop year, to the estimated production of marketable almonds, or the allocation quanity, whichever is applicable.

(4) Section 981.51 prescribes certain requirements for reserve. The provisions of that section are based on the marketing and regulatory conditions of 1956 when each handler was required to meet his reserve obligation by physically setting aside lots meeting grade requirements prescribed in paragraphs (a), (b), and (c), of that section. The necessity for physical setaside of reserve almonds was deleted by the 1970 amendment, and the grade requirements therefore are obsolete and should be deleted.

Section 981.51 also limits the weight that may be certified and credited as reserve to the kernel weight less any inedible kernel weight in excess of three percent of its edible kernel content. This tolerance would lose its significance if the incoming quality regulation necessitates the removal of inedible kernels in excess of two percent in a lot and disposition in non-human consumption outlets. It was testified that most packs for human consumption would have very few, if any inedible kernels. Therefore, inspection of almonds disposed of as reserve almonds in non-human consumption outlets would be unnecessary. In view of this, the requirements for outgoing inspection of reserve almonds should be deleted except in those crop years when the agency agreement authorized in § 981.67 provides that all export sales must be made at minimum prices. In that event, the inspection would be necessary in order to establish the grade and size of each lot, thereby determining whether the sales price is equal to or better than the minimum price for the grade and size being shipped. Inspection and certification of reserve almonds for human consumption should also be required if outgoing quality requirements are established pursuant to proposed § 981.42(b).

As discussed in Material Issue 3, in some crop years almonds diverted to oil or feed should be eligible for reserve satisfaction, and an estimate of this quantity should be included in the total quantity allocated to trade demand and other outlets (i.e., the allocation quantity). This estimate should be included with the estimates and recommendations furnished by the Board to the Secretary pursuant to § 981.49. In connection with the proposed revision of § 981.51, it was testified that in those years when a reserve is established and a portion of the reserve obligation may be satisfied by diversion of almonds in oil or feed outlets, the quantity diverted should be credited against the handler's reserve obligation and, as currently provided, deducted from his receipts. This should include any inedible kernels disposed of by the handler in satisfaction of any disposition obligation incurred pursuant to § 981.42(a). Handlers should be afforded this as an incentive to keep low quality material out of normal trade channels.

The provisions of § 981.51 should be deleted except for the modification and grade authority in the last sentence. The new provisions of § 981.51 should provide that each handler may satisfy his reserve obligation with such almonds specified in the terms of the agency agreement authorized in § 981.67, including all applicable inspection and certification requirements. Disposition of reserve almonds by handlers is pursuant to § 981.67 of the order. Section 981.67 provides, in part, for the Board to authorize handlers to act as its agents by means of an agency agreement. In the event a handler does not become an agent of the Board, § 981.51 should provide that this handler may receive credit by similarly delivering almonds to the Board or its designees. It was testified that the incoming quality control would require a handler to process his receipts and remove inedible kernels to meet any disposition obligation incurred pursuant to § 981.42 (a), and thus, a non-agent would have about the same grade of almonds as an agent to satisfy his reserve obligation.

Revision of § 981.51 would necessitate conforming changes in other sections of the order. The third sentence in § 981.61 should be revised so that the redetermined kernelweight of each handler's receipts, as of any date during the crop year, shall be his carryover as of that date plus the weight of almonds delivered or used in products minus the carryover at the beginning of the crop year, the weight on which another handler has assumed the obligations, and the weight delivered to exempt outlets. Since the order no longer requires a physical setaside of a handler's reserve obligation, the undisposed portion of reserve can no longer be readily separated from the total carryover as of December 31, March 31, or June 30, and determining the portion of the carryover that is reserve should not be done until the redetermined weight is known. Consequently, redetermination should be computed on the basis of the total inventory plus the total deliveries and usage in products.

Since the quantity of reserve almonds disposed of in oil or feed outlets would be deducted from a handler's receipts, the words "and which are not reserve almonds" appearing in the first sentence of § 981.50 should be deleted as a conforming change. In that same provision, the words "disposed of in" should be changed to "delivered to" to conform with the third sentence of § 981.61. Thus, upon delivery to an accepted user, the handler should be able to claim the applicable credit. It should be the Board's responsibility to maintain surveillance over users to assure that they dispose of the almonds through crushing or feeding.

(5) Section 981.53 should be deleted. Section 981.53 authorizes a handler to defer withholding reserve to any date desired by the handler, but not later than May 15 of the crop year, by means of a written undertaking secured by a bond or bonds. This provision has not been used since the 1970 amendment.

The purpose of the deferment was to permit handlers to use early receipts to meet market needs. With larger crops and the need to hold inventories to service year-round customers, it is no longer necessary for most handlers to defer withholding to meet their reserve obligations. For those handlers who do not sell the year-round, the withholding requirement must be met by them while they still have almonds. These handlers cannot be permitted to defer the withholding until May 15.

As a conforming change, item (a) in § 981.52 reading: "Any quantity for which he has a temporary deferment pursuant to § 981.53," should be deleted and items (b) and (c) should be redesignated as (a) and (b) respectively. Also, the words "the time for withholding has been deferred pursuant to § 981.53 or" in the second sentence of the same section should be deleted.

(6) Section 981.80 authorizes the Board to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each crop year, for the maintenance and functioning of the Board, including the accumulation and maintenance of an operating reserve fund, and for such purposes as the Secretary may, pursuant to the provisions of the order, determine to be appropriate. Section 981.81(a) requires handlers to pay to the Board, by way of assessments, such sum, less any amounts credited pursuant to § 981.41, as the Secretary finds is necessary to provide funds to meet the authorized Board expenses and the operating reserve requirements, and establishes for the crop year. Section 981.41(c) authorizes the Board, with the approval of the Secretary, to provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of almonds, almond products or their uses. That paragraph also provides that no handler shall receive credit for any allowable direct expenditures that would exceed the total of his assessment obligation which is attributable to that portion of his assessment designated for marketing promotion including paid advertising. The provisions of §§ 981.80 and 981.81 on establishment and maintenance of an operating reserve fund, and of § 981.41 on marketing promotion including paid advertising were included in the order in the 1972 amendment.

Testimony was presented that paragraphs (b) and (c) of § 981.81 should be modified. The modification should establish that advertising assessments carried into a new crop year do not become a part of the operating reserve fund immediately. The operating reserve should be a pool of funds available to pay the costs of authorized activities of the Board during any part of the crop year when assessment income permits. Furthermore, withdrawals from the operating reserve should be replaced so that an adequate reserve is available to service the needs of the next crop year.

It should also be clear that the Board may spend any money collected from handlers as the uncredited portion of the assessment rate attributable to marketing promotion and paid advertising. Since this money generally is not available until a crop year has ended, the only time the Board can spend this money is in the succeeding crop year. Moreover, that money should not be available for spending by the Board and simultaneously used to create a reserve.

Based on the Board's experience with the provision included in the order in 1972, its fiscal affairs may be broken down into four accounts; administrative, research, creditable advertising, and consumer education. For the purpose of preparing budgets, determining assessments, and establishing limits in the operating reserve fund, the Board should be able to use two major classifications; "administrative-research" and "marketing promotion". The latter classification would include creditable advertising and consumer education.

The Board further commented that the first and second sentences of § 981.81 (b), as recommended, are not consistent with the evidence of record. In both cases, the limiting words "administrative-research" have been inserted. This is not as proposed by the Board, and is inconsistent with the classification of some consumer education funds under the classification administrative-research. The Board asserts that in the early weeks of a crop year, the carryover assessment funds in hand must be available for all Board expenses, administrative, research and consumer education. Also, the practice of funding portions of the consumer education budget from direct assessment funds instead of unspent advertising assessment funds, should be recognized. Such unspent advertising assessment funds are not available until several weeks into the crop year, and in some years may be inadequate.

As recommended, § 981.81(b) provides, in part, that any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's administrative-research expenses of the first four months of the succeeding crop year. No later than the fifth month, the amount not expended in the previous crop year for administrative-research shall be retained in the operating reserve fund. The provision only has the effect of limiting the use of funds collected pursuant to the advertising crediting provisions of § 981.41 for the Board's marketing promotion activities. In order to clarify this point, the words "administrative-research" are deleted in the first sentence of § 981.81(b), and the second sentence of § 981.81(b) is revised so that no later than the fifth month, the amount not expended from assessments collected for administrative-research in the previous crop year shall be retained in the operating reserve fund.

Therefore, paragraph (b) of § 981.81 should provide that any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's expenses of the first four months of the succeeding crop year. No later than the fifth month the amount not expended from assessments collected for administrative-research in the previous crop year shall be retained in the operating reserve fund. Paragraph (b) should also provide that any amounts not credited pursuant to § 981.41 for a crop year may be used by the Board for its marketing promotion expenses of the succeeding crop year, and any unexpended portion of those amounts at the end of that crop year shall be retained in the marketing promotion portion of the operating reserve fund. The Board should not accumulate money in excess of its needs. Therefore, any money in each portion of the operating reserve fund in excess of the level authorized pursuant to paragraph (c) shall be refunded to handlers or used to reduce the assessment rate of the subsequent crop year, as the Board may determine. Each handler's share of a refund shall be the amount by which his payment of assessments exceeds his pro rata share of the two major classifications of Board expenses. For the purpose of computing any refund from the marketing promotion portion, each handler's payment of assessments shall include any amount credited to the handler pursuant to § 981.41. In lieu of a refund, each handler may have the amount due him credited to his assessment obligation of the crop year in which the amount would be refunded.

Consistent with the revision of paragraph (b), paragraph (c) of § 981.81 should provide that the Board may maintain an operating reserve fund consisting of an administrative-research portion and a marketing promotion portion. The amount in each portion shall not exceed approximately six-months budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary. However, this limitation shall not restrict the temporary retention of excess funds for the purpose of stabilizing or reducing the assessment rate of a crop year. To the extent that funds from current crop year assessments are inadequate, funds in the operating reserve may be used for the authorized activities of the crop year. Funds so used, and not exceeding the six-month limitation, shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

(7) In § 981.62(a), the designation of "major varieties" and "minor varieties" should be deleted, and the list of almond varieties and their corresponding percentages should be rearranged in a unified list in descending order according to the varietal shelling ratio. The ratios are used to compute the kernel weight of almonds which are handled unshelled.

In the notice of hearing the proposal was to redesignate five almond varieties as either "major varieties" or "minor varieties." It was testified, however, that the "major" and "minor" designations can be confusing, and there is no useful purpose in continuing these designations.

(8) Testimony on several proposals pertaining to the Board, including establishment, membership representation, and nominations, was presented at the hearing. These included Proposals 19, 20, 21, and 22 in the Notice of Hearing, and one introduced at the hearing. For the reason stated in this Material Issue, all of these proposals should be denied.

Proposal 19 would divide the production area into two districts and assign

an independent grower member and alternate member to each district so that growers and their representatives would be closer to each other. The proponent indicated that, currently, growers in the southern San Joaquin Valley are about 400 miles from their representative on the Board.

Another proponent submitted Proposals 20, 21, and 22. The proponent stated that the proposals are necessary for several reasons. Since the promulgation of the order in 1950, the composition of the Board, nomination of its members, or the groups they represent, have not been changed, even though the almond industry has changed in the past 25 years and more changes can be expected in the future. Under the proposal, each segment of the industry would have an opportunity to be represented on the Board by a direct vote and, to be as "democratic" as possible, it was further proposed that the cooperative and other than cooperative designated Board positions would be removed. It was contended that such a division encourages members of the Board to act on a personal rather than an industry-wide basis. Proposal 20 would establish a Board of 12 members (instead of 10, as currently provided), with an alternate for each member. Six members and their alternates would represent growers and six members and alternates would represent handlers. It would divide the production area into three districts and assign two grower members and their alternates to each district. Proposal 21 would prescribe qualifications for members and their alternates to serve on the Board. Each grower member and alternate member, at the time of his selection and during his term of office would have to be a grower within the district for which selected. Each grower member and alternate member would be prohibited from handling almonds either in a proprietary capacity or as a director, officer, or employer; each handler member and alternate member would have to be a director, officer, or employee of a handler. Proposal 22 would revise the nomination procedures for membership on the Board. Each grower could vote only in one district. Each grower would be able to vote for two candidates. The person receiving the greatest number of votes, by number, and the person receiving the greatest number of votes, by tonnage, would be the member nominees. Handlers would vote for members and alternate members separately, and each handler's vote would be weighted by the quantity of almonds handled during a designated period. A handler would be able to divide his vote among candidates in each category assigning to each vote the portion of the weighting available to him as he may choose. The member nominees would be those six persons receiving the highest weighted vote.

A fourth proposal submitted at the hearing was not included in the Notice of Hearing. It would increase the membership of the Board to 11 members and their alternates. This additional member would be assigned to cooperative and independent handlers, none of which individually handled more than three percent of the almonds delivered by growers. The proponent offered this proposal to give small handlers representation on the Board.

Opposition to all of these proposals was presented at the hearing, with emphasis on Proposals 20, 21, and 22. In summation, the opponent stated that the success of the order and the Board's administration of it cannot be equalled in any other industry, and this history is the strongest recommendation for maintaining the current makeup of the Board.

That the success of the order and its administration by the Board over the years has proven successful appears evident to many in the industry. However, acceptance alone should not necessarily justify the status quo. As testified, the almond industry has changed considerably since the order was promulgated. Since then, almond production increased from about 40 million pounds, kernel weight basis, to 217.7 million pounds, kernel weight basis, in 1974. Almond acreage increased from about 90,500 bearing acres and about 18,000 nonbearing acres in 1950, to about 230,000 bearing acres and about 74,000 nonbearing acres in 1974. In 1950, almond production in California was confined largely to the Sacramento Valley and adjacent counties. Today, California's almond production extends from the southern part of the San Joaquin Valley to the Sacramento Valley.

Although these changes may lend credence to the two proposals for a division of the area into districts, at least for the purpose of obtaining producer nominees who do not market their production through cooperative handlers, the testimony presented on both was insufficient to enable recommending one over the other. The same applies to the proposals for the creation of an 11-member and a 12-member committee, and the proposals on division of membership between five producer members and six handler members, or six producer members and six handler members. In addition, serious potential difficulties in Proposals 21 and 22 were uncovered by the opposition testimony which should preclude their adoption.

However, for the purposes of this recommended decision, any further analysis of the relative strength and weaknesses of the four proposals is unnecessary. It is clear from all of the testimony presented on the four proposals that the industry is not in agreement on the appropriate provisions covering Board composition, representation, and nominations. It is essential that there be substantial agreement within all segments of any industry on matters of this sort. The diversity of testimony presented on these matters indicate a need for further study by the almond industry and agreement on any changes to be presented at an amendatory hearing.

(9) Some of the amendatory actions included in this recommended decision cause the need to make certain conforming changes so that the order, as amended, will be in conformity with those actions. Any such changes are discussed with the issues to which they are pertinent. All such changes should be incorporated in the recommended amendment of the order.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed December 29, 1975, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. On December 23, 1975, the time for filing such documents was extended to January 9, 1976.

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

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

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

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of almonds grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of almonds grown in the production area which make necesssary different terms and provisions

applicable to different parts of such area; and

(6) All handling of almonds grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

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

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Almonds Grown in California," and "Order Amending the Order, as Amended, Regulating the Handling of Almonds Grown in California," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

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

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of Almonds Grown in California is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the (production or marketing) area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1975 through March 31, 1976.

The agent of the Secretary to conduct such referendum is hereby designated to be William B. Blackburn, Gilbert Muck and William J. Higgins.

Signed at Washington, D.C. on May 26, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

Order[1] amending the order, as amended, regulating the handling of almonds grown in California

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California.

Upon the basis of the record it is found that:

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

(2) The order, as amended, and as hereby further amended, regulates the handling of almonds grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of almonds grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of almonds grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of almonds grown in California shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Acting Deputy Administrator on April 6, 1976, and published in the FEDERAL REGISTER on April 12, 1976 (41 F.R. 15341), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following revision:

The first two sentences of § 981.81(b) are changed.

1. Revise § 981.4 to read as follows:

§ 981.4 Almonds.

"Almonds" means (unless otherwise specified) all varieties of almonds (except bitter almonds), either shelled or unshelled, grown in the State of California, and for the purposes of research includes almond shells and hulls.

2. Revise § 981.7 to read as follows:

§ 981.7 Edible kernel.

"Edible kernel" means a kernel, piece, or particle of almond kernel that is not inedible.

3. Revise § 981.8 to read as follows:

§ 981.8 Inedible kernel.

"Inedible kernel" means a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing. This definition may be modified by the Board with the approval of the Secretary: *Provided,* That the Board shall submit any recommendation for modification to the Secretary not later than August 1.

4. Revise § 981.13 to read as follows:

§ 981.13 Handler.

"Handler" means any person handling almonds during any crop year, except that such term shall not include either a grower who sells only almonds of his own production at retail at a roadside stand operated by him, or a person receiving almonds from growers and other persons and delivering these almonds to a handler.

5. Revise § 981.20 to read as follows:

§ 981.20 Handler carryover.

"Handler carryover" as of any given date means all almonds, wherever lo-

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

cated, then held by handlers for their own accounts (whether or not sold) but not including any almond products.

6. Revise § 981.21 to read as follows:

§ 981.21 Trade demand.

"Trade demand" means the quantity of almonds (kernel weight basis) which commercial distributors and users such as the wholesale, chain store, confectionery, bakery, ice cream, and nut salting trades will acquire from all handlers during a crop year for distribution in the United States, Puerto Rico, and the Canal Zone: *Provided*, That in recommending the salable and reserve percentages for any crop year, the Board may include, with the approval of the Secretary, export outlets for almonds.

7. Amend § 981.22 by changing "Control Board" to "Board" and revising the definition to read as follows:

§ 981.22 Board.

"Board" means the Almond Board of California which is the administrative agency established by this subpart.

§ 981.30 [Amended]

8. Revise the center caption preceding § 981.30 to read "ALMOND BOARD OF CALIFORNIA" and delete "Control" wherever it appears in the order.

9. Add § 981.42 to read as follows:

§ 981.42 Quality control.

(a) *Incoming.* Each handler shall cause to be determined, through the inspection agency, and at handler expense, the percent of inedible kernels in each variety received by him, and shall report the determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, shall constitute a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The Board, with the approval of the Secretary, may change this percentage for any crop year, may authorize additional outlets, and may establish rules and regulations necessary and incidental to the administration of this provision, including the method of determining inedible kernel content and satisfaction of the disposition obligation. The Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

(b) *Outgoing.* For any crop year the Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to almonds to be handled or to be processed into manufactured products, as will contribute to orderly marketing or be in the public interest. In such crop year, no handler shall handle or process almonds into manufactured items or products unless they meet the applicable requirements as evidenced by certification acceptable to the Board. The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this provision.

10. Revise § 981.47 to read as follows:

§ 981.47 Method of establishing salable and reserve percentages.

Whenever the Secretary finds, from the recommendations and supporting information supplied by the Board or from any other available information, that to designate the percentages of almonds during any crop year which shall be salable almonds and reserve almonds would tend to effectuate the declared policy of the act, he shall designate such percentages. Except as provided in § 981.50 the salable and reserve percentages shall each be applied to the kernel weight of almonds received by a handler for his own account during the crop year. In establishing such salable and reserve percentages, the Secretary shall give consideration to the ratio of estimated trade demand (either domestic or domestic plus export, less the handler carryover available to satisfy trade demand plus the desirable handler carryover at the end of the crop year) to the estimated production of marketable almonds (all expressed in terms of kernel weight) or the allocation quantity (marketable production plus almonds diverted to oil or feed when eligible for reserve satisfaction) whichever is applicable; the recommendation submitted to him by the Board; and such other information as he deems appropriate. The total of the salable and reserve percentages established each crop year shall equal 100 percent.

§ 981.49 [Amended]

11. Revise § 981.49(a) by inserting the word "marketable" before "almonds".

12. Revise § 981.50 to read as follows:

§ 981.50 Reserve obligation.

Whenever salable and reserve percentages are in effect for a crop year, each handler shall withhold from handling a quantity of almonds having a kernel weight equal to the reserve percentage of the kernel weight of all almonds such handler receives for his own account during the crop year: *Provided*, That any quantity of almonds delivered to outlets such as poultry or animal feed or crushing into oil, in a manner permitting accountability to the Board, shall not be included in such receipts. The quantity of almonds hereby required to be withheld from handling shall constitute, and may be referred to as the "reserve" or "reserve obligation" of a handler. The almonds handled as salable almonds by any handler, in accordance with the provisions of this part, shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

13. Revise § 981.51 to read as follows:

§ 981.51 Requirements for reserve.

Each handler may satisfy his reserve obligation with such almonds specified in the terms of the agency agreement authorized in § 981.67, including all applicable inspection and certification requirements. Any handler who does not become an agent may receive credit by similarly delivering almonds to the Board or its designees. These requirements may be established by the Board, with the approval of the Secretary, and from time to time so modified, and may include grade requirements for reserve almonds delivered to human consumption outlets.

§ 981.53 [Reserved]

14. Delete § 981.53 and make conforming changes in § 981.52. As so revised, § 981.52 reads as follows:

§ 981.52 Holding requirement and delivery.

Each handler shall, at all times, hold in his possession or under his control, in proper storage for the account of the Board, the quantity of almonds necessary to meet his reserve obligation less: (a) Any quantity which was disposed of by him pursuant to §981.67; and (b) any quantity for which he is otherwise relieved by the Board of responsibility to so hold almonds. Upon demand of the Board reserve almonds shall be delivered to the Board f.o.b. handler's warehouse or point of storage, except that the Board shall not make such demand upon a handler with respect to reserve almonds for which he has agreed to undertake disposition pursuant to § 981.67. Any handler who does not act as agent for the Board in the disposition of reserve almonds shall be subject to the applicable inspection and certification requirements prescribed by the Board pursuant to § 981.67.

15. Revise § 981.61 to read as follows:

§ 981.61 Redetermination of kernel weight.

The Board, on the basis of reports by handlers, shall redetermine the kernel weight of almonds received by each handler for his own account during each crop year through each of the following dates: December 31, March 31, and June 30. Such redetermined kernel weight for each handler shall be the basis for computing his reserve obligation for the crop year through such dates, except that adjustment shall be made for almonds on which the obligation has been assumed by another handler. The redetermined kernel weight of each handler's receipts, as of any date during the crop year, shall be his carryover as of that date plus the weight of almonds delivered or used in products minus the carryover at the beginning of the crop year, the weight on which another handler has assumed the obligations, and the weight delivered to exempt outlets. Weights used in such computations for various classifications of almonds shall be: (a) For unshelled almonds, the kernel weight computed by application of shelling ratios authorized pursuant to § 981.62; (b) for shelled almonds, the net weight; and (c) for shelled almonds used in production of almond products, the net weight of such almonds.

16. Revise § 981.62 (a) to read as follows:

§ 981.62 Varietal shelling ratios for unshelled almonds.

(a) The varietal shelling ratios applicable to unshelled almonds for determination of kernel weight are as follows:

Varieties:	Percent
Jordanolo	60
Kapereil	60
Merced	60
Nonpareil	60
Thompson	60
Bigelow	55
Harpareil	55
Eureka	54
Baker	53
Trembath	53
Ballico	50
Davey	50
IXL	50
Long IXL	50
Ne Plus Ultra	50
Ruby	50
Smith (Smith's XL)	48
Lewelling (Lewelling's Prolific)	47
Walton	41
Drake	40
Emerald	40
Mission	40
Ripon	40
Standard	38
Sultana	36
Peerless	35
Tarragona	33
Hardshell	30
Bidwell	30

* * * * *

§ 981.66 [Amended]

17. Revise § 981.66 by substituting the word "salable" for the word "domestic" in the title of § 981.66(c), and by revising the last sentence of § 981.66(d) to read as follows: "The Board may dispose of reserve almonds in non-competitive outlets in any crop year in which the quantity exceeds that needed for export or the export quantity is included in salable almonds".

18. Revise § 981.81 (b) and (c) to read as follows:

§ 981.81 Assessment.

(a) * * *

(b) Refunds. Any money collected as assessments for either the administrative (maintenance and functioning) or research activities of the Board and not used for the expenses of the applicable crop year, may be used in paying the Board's expenses of the first four months of the succeeding crop year. No later than the fifth month the amount not expended from assessments collected for administrative-research in the previous crop year shall be retained in the operating reserve fund. Any amounts, not credited pursuant to § 981.41 for a crop year may be used by the Board for its marketing promotion expenses of the succeeding crop year, and any unexpended portion of those amounts at the end of that crop year shall be retained in the marketing promotion portion of the operating reserve fund. Any funds in each portion of the operating reserve fund in excess of the level authorized pursuant to paragraph (c) of this section shall be refunded to handlers or used to reduce the assessment rate of the subsequent crop year, as the Board may determine. Each handler's share of a refund shall be the amount by which his payment of assessments exceeds his pro rata share of the two major classifications of Board expenses. For the purpose of computing any refund from the marketing promotion portion, each handler's payment of assessments shall include any amount credited to the handler pursuant to § 981.41. In lieu of a refund, each handler may have the amount due him credited to his assessment obligation of the crop year in which the amount would be refunded.

(c) *Reserves.* The Board may maintain an operating reserve fund consisting of an administrative-research portion and a marketing promotion portion. The amount in each portion shall not exceed approximately six-months' budget for the activity area or such lower amount as the Board may establish with the approval of the Secretary: *Provided,* That this limitation shall not restrict the temporary retention of excess funds for the purpose of stabilizing or reducing the assessment rate of a crop year. To the extent that funds from current crop year assessments are inadequate, funds in the operating reserve may be used for the authorized activities of the crop year. Funds so used, and not exceeding the six-month limitation, shall be replaced to the extent practicable from assessments subsequently collected for the crop year.

* * * * *

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[7 CFR Part 984]

[Docket No. AO-192-A6]

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984) regulating the handling of walnuts grown in California, Oregon, and Washington.

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by June 16, 1976. The exceptions should be filed in quadruplicate. 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)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedures governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement—This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at San Francisco, California, January 27-28, 1976. Notice of the hearing was published in the January 13, 1976, issue of the FEDERAL REGISTER (41 FR 1916). The proposals contained in the notice of hearing were submitted by the Walnut Marketing Board, Valley Walnut Growers Cooperative, Mr. Milburn Ziegler, and the Fruit and Vegetable Division, Agricultural Marketing Service. The material issues of record are as follows:

(1) Reducing the "area of production" to the State of California and changing certain related provisions specified in the order;

(2) Revising the definitions of "To handle", "surplus walnuts", and "hold"; deleting the definition of "withholding factor"; and adding a definition for the term "To certify";

(3) Revising the Board nomination provisions for cooperative handlers;

(4) Changing the concept of volume regulation from that of surplus to reserve; changing the word "surplus" to "reserve" throughout the order; and adding authority for recommending the percentage of reserve walnuts that may be exported;

(5) Revising provisions on minimum grade and size regulations;

(6) Revising provisions on inspection and certification of walnuts;

(7) Making changes in Board representation and nomination provisions to bring them into conformity with the recommended change in the basis of determining a handler's reserve and assessment obligations; and deleting related obsolete provisions;

(8) Revising the basis of a handler's reserve obligation and the method of computing this obligation; replacing holding requirements for surplus walnuts with similar requirements for reserve walnuts; providing for the control and disposition of reserve walnuts; and moving provisions on transfer of excess credits to another section of the order;

(9) Deleting the provisions authorizing handlers to declare a specified quantity of walnuts for handling and satisfying the applicable surplus and assessment obligations;

(10) Making conforming changes in provisions on interhandler transfers;

(11) Revising provisions on the disposition of substandard walnuts, Board assistance in meeting reserve obligations, and exemptions;

(12) Revising provisions on Board expenses and handler assessments;

(13) Revising provisions on verification of reports; and

(14) Making such changes in the order as may be necessary to bring the entire order, as amended, into conformity with the amendatory action resulting from the hearing.

Findings and conclusions—The following findings and conclusions on the material issues are based on the record of the hearing:

(1) The current "area of production", defined in § 984.4, covers the States of California, Oregon, and Washington. This area should be reduced to cover only the State of California.

The current order became effective in 1948. During the first five years under the order, commercial walnut production in Oregon and Washington averaged 16.2 million pounds, and in California the average was 137.6 million pounds. Over the years, as commercial production in California steadily increased, the production in Oregon and Washington steadily declined. The 1975 commercial production in California totaled a record 393.4 million pounds. However, in Oregon and Washington, it was only 1.7 million pounds, or less than 0.5 percent of the total United States commercial production (California, Oregon, and Washington) of 395.1 million pounds. Production of walnuts in Washington has been so insignificant in recent years that the U.S. Department of Agriculture has not published any data on it.

The increase in California commercial walnut production is mainly due to the development of higher-yielding varieties, additional acreage, and more efficient cultural practices. In Oregon and Washington, prevailing bad weather during the harvest season and natural climatic conditions causing Oregon and Washington production to be at least one month later for market than California production have discouraged development of new varieties, and encouraged the steady decline in production. This decline is expected to continue. Hence, any sudden upsurge in walnut production in Oregon and Washington after their removal from the production area is not anticipated.

Without adequate supplies to market, the number of handlers in Oregon and Washington has also substantially declined. All but one of the inshell packing facilities have gone out of business. Testimony revealed that only three shelling facilities are still handling walnuts, but as production continues its decline these three may also go out of business.

About 50 percent of the small volume of walnuts produced in Oregon and Washington is generally sold in local and direct consumer markets. Should any of these walnuts be sold outside of Oregon and Washington, they are not expected to affect the marketing of California walnuts. Therefore, the failure to control the marketing of Oregon and Washington walnuts will not interfere with the marketing of California walnuts.

Occasionally, some orchard-run walnuts from Northern California have been trucked to handlers in Oregon for processing, packing, and marketing. Currently, this movement is not handling and is free from order obligations (inspection, volume and assessment). However, the recommended exclusion of Oregon and Washington from the production area covered by the order would make such a movement an act of handling. Thereafter, anyone shipping walnuts from California to Oregon or Washington would be subject to the order obligations before the walnuts left California. No compliance problems are foreseen if this movement continues.

In as much as California is now the only significant commercial walnut producer in the United States, no practical purpose, including compliance with marketing program provisions, would be served by keeping Oregon and Washington in the area of production. Moreover, the recommended reduction in area would limit application of the program to the smallest regional production area practicable, consistent with carrying out the declared policy of the act.

Certain provisions in the order which make reference to the States of Oregon and Washington and nonvoting delegate representation from these two states on the Walnut Marketing Board (the administrative agency of the order) should be deleted to reflect the recommended exclusion of Oregon and Washington from the area of production.

The definitions of the terms walnuts (§ 984.8), and part and subpart (§ 984.-31), make reference to walnuts grown in the States of Oregon and Washington. Since it is recommended that Oregon and Washington be removed from the production area, the references to Oregon and Washington in both of these definitions are not needed, and therefore should be deleted.

Section 984.35(a) (5) and (6) provide grower representation on the Board for growers from two grower districts. Group (5) includes growers in District 1 marketing through independent handlers in California and those who market through independent or cooperative handlers in Oregon and Washington. District 1 is made up of the States of Oregon and Washington and the walnut producing counties in the State of California, that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties. Group (6) includes growers in District 2 who market their walnuts through independent handlers. District 2 is made up of all of the walnut producing counties in California south of that boundary line. Section 984.35(a) (7) provides representation on the Board for Oregon and Washington handlers by a nonvoting delegate. Since Oregon and Washington are recommended to be removed from the production area and coverage under the marketing order programs, growers and handlers from these two states should not be afforded representation on the Board. Thus, the representation afforded Oregon and Washington growers and handlers from Groups (5) and (7) respectively, should be deleted to reflect the recommended change in production area. Also, in connection with the recommended change in production area, the States of Oregon and Washington should be removed from District 1. Continuing grower districts (1) and (2) would facilitate nominations of the two grower members from Groups (5) and (6) by giving growers in the southern and northern portions of California a better opportunity to be represented on the Board. These districts are relatively equal with respect to walnut acreage and production and divided along established boundary lines. The reference to voting members in § 984.35 (b) should be deleted since California would be the only state included in the production area and all members on the Board would be voting members.

Any reference to nonvoting delegates or voting members in §§ 984.36 (Term of office), 984.37 (Nominations), 984.38 (Eligibility), 984.39 (Qualify by acceptance), 984.40 (Alternate), 984.41 (Vacancy), 984.42 (Expenses) and 984.84 (Personal liability) should be deleted to reflect the reduced production area. Section 984.40(b) also provides that cooperative grower and handler groups from the same state shall be considered as the same group when a temporary substitution of a member is necessary. The words "from the same state" are no longer needed because of the recommended reduction in the production area and they should be deleted from the last sentence.

Sections 984.48 and 984.49 provide for the recommendation and establishment of volume regulation for Oregon and Washington. The recommended reduction in the production area makes the inclusion of these two states unnecessary and they should be deleted.

A report of shipments between the States of California, Oregon, and Washington is required pursuant to § 984.74. The recommended reduction of the production area would make this report unnecessary and therefore § 984.74 should be deleted from the order.

Section 984.89(b)(3) specifies the producer majority required in a termination referendum. Since Oregon and Washington would be removed from the area of production, the inclusion of these two states is unnecessary and they should be deleted from § 984.89(b)(3).

(2) The exception in the definition of the term "To handle" in § 984.13 should be revised to read: "Except, that the term 'to handle' shall not include sales and deliveries within the area of production by growers to handlers." The exception in current definition provides that the disposition of surplus or substandard walnuts is not an act of handling. Consequently, such walnuts are not used in calculating a handler's base under the volume regulation or in his assessment requirements. It was proposed in the notice of hearing that this part of the exception in the current definition should be deleted since the basis for applying the volume regulations and assessment obligations would be changed. Therefore, for the reasons discussed in Material Issue (8) the purpose of the change would be to bring this definition into conformity with the change from a surplus concept to a reserve concept. In making such a change, any walnuts certified as merchantable and disposed of

as reserve walnuts would be considered an act of handling. Consequently, reserve walnuts (currently surplus walnuts) that are certified as merchantable would be included as a part of the new volume regulation base. As further discussed in Material Issue (8) the basis of these program requirements is recommended to be changed to the quantity of walnuts certified as merchantable. The exclusion of substandard walnuts from the definition is necessary since the disposition of such walnuts is to be covered in another section of the order.

Section 984.26 defines the term "surplus walnuts" to mean walnuts which are held to meet a surplus obligation. The term "hold" is defined in § 984.33 to specify the conditions of holding walnuts to meet a surplus obligation. A later recommendation, discussed in Material Issue (4) would amend the order to recognize a different supply and export situation by changing from a surplus concept to a reserve concept. Hence, the word, "reserve" should be substituted for "surplus" wherever it apears in these two sections to reflect this change. Also, the definition of the term "hold" should be revised to make it clear that handlers would be required to hold certified merchantable walnuts to meet a reserve obligation under the proosed change of the order.

Current § 984.32 defines the term "withholding factor" as the quotient, expressed as a percentage rounded to the nearest one-tenth, resulting from dividing the surplus percentage by the free percentage established by the Secretary pursuant to § 984.49. The factor has been used by handlers to determine their surplus obligations in years of volume control by applying the factor to the weight of walnuts handled or declared for handling. The recommendation to change the basis for order obligations from the volume of walnuts handled or declared for handling to merchantable certifications and the change in the method of computing such obligations makes the use of this factor unnecessary. Hence, the term "withholding factor", in § 984.32 and the authority for its establishment in § 984.49(b) should be deleted.

In the notice of hearing, it was proposed that the term "certified" be defined to mean the issuance of a certification of inspection of walnuts by the inspection service. However, to make the definition more grammatically correct and to clarify its intent, the term "To certify" should be used. The term "To certify" should be defined to make its meaning clearly apparent. The term "certified" is used in §§ 984.35, 984.37, 984.51, 984.54, and 984.69 (recommended to be revised) of the order, dealing with Board representation, nominations, inspection and certification of inshell and shelled walnuts, establishment of obligation and program assessments, repectively.

(3) The notice of hearing contained a proposal to revise provisions regarding the method of voting handler membership to the Walnut Marketing Board to give the second largest cooperative in California one of the two cooperative handler positions on the Board. The proposal further provided that the second largest cooperative qualify for this position by handling at least five percent of the preceding year's crop.

The order currently provides cooperative handlers and their growers two handler members and alternate members, and two grower members and alternate members on the Board. It also provides for a grower member and an alternate member to represent either independent growers or cooperative growers depending upon the quantity of walnuts handled by the independent or cooperative handlers in the State of California during a specified period. Cooperative growers currently qualify for this position on the Board. Consequently, the cooperative handlers and their growers are represented on the Board by a total of three grower members and alternate members and two handler members and members.

The current provisions for nominating persons to fill these five positions provide for weighting the vote of each cooperative handler in California by the kernelweight of merchantable walnuts which it handled (recommended to be changed to the kernelweight of walnuts certified as merchantable) during the marketing year preceding the year in which Board nominations are held. Therefore, the cooperative handling the largest share of the California crop can nominate persons to fill the five positions which the cooperative handlers and their growers are currently entitled.

The record evidence revealed that the larger of the two walnut marketing cooperatives in California handled about 54 percent of the total California walnut crop for the past ten marketing years. Hence, these handlings are about eleven times larger than the qualification percentage of the proposal. Moreover, these handlings indicate that the larger cooperative which is made up of a large number of growers, has substantial experience in handling and marketing walnuts.

The proponent (the smaller of the two cooperatives) of the modified provisions contended that since a larger portion of its shipments are to foreign countries, that any Board decision arrived at during a meeting on limiting exports of reserve walnuts should not be made without its views.

All Board meetings are open meetings and any person is allowed to attend and express their views on matters discussed. Hence, no person including the proponent, is precluded from making its views known to the Board. All such views are considered by the Board.

The proponent also contended that its proposal would make the cooperative nomination provisions consistent with those for nominating independent handlers to serve on the Board. Currently, each independent handler in California votes for two independent nominees to fill the two positions allocated to such handlers on the Board. However, no independent handler may have more than one representative on the Board.

There are about 30 independent handlers in California representing about 40 percent of the California walnut crop. Several of these handle more walnuts than the proponent and yet they are not assured individual representation on the Board under the current order or under the order as recommended to be amended. Hence, it would not be equitable to these handlers if the proponent is allowed representation on the Board.

Since all of the Board meetings are open meetings and the larger cooperative handles the much larger portion of the total crop as aforementioned, and since individual independent handlers in the industry are not assured representation on the Board, the current handler nomination provisions in this respect should not be changed. Therefore, the proposal is not adopted.

(4) In the early years of the program the export market was virtually nonexistent. However, the necessity to find a good secondary market for rapidly increasing domestic walnut production, caused the industry to develop this market in recent years to such an extent that a large volume of walnuts has been exported to foreign countries. There appears to be a reasonable prospect that the export market will continue to take an increasing amount of domestic walnut production. It is estimated that exports of inshell walnuts for the 1975–76 marketing year will exceed 70 million pounds, and shelled exports will exceed 4 million pounds. If these volumes are exported, total industry exports would climb to an all time record high.

Therefore, the export market should be considered an important secondary market; a reserve market meriting an effort to stabilize supplies destined to such outlet. Hence, the portion of the domestic walnut production excluded from the domestic market (United States, Puerto Rico, and the Canal Zone) and earmarked for export or noncompetitive outlets should be referred to as the reserve. The method of control and disposition of the reserve is discussed in Material Issue (8).

The order should be changed to recognize the changed supply and export situation by changing from a surplus to a reserve concept. Hence, the entire order should reflect this change by substituting the word "reserve" for "surplus" throughout the order. Also, the heading preceding § 984.54 should be changed from "Surplus Walnuts" to "Reserve Walnuts" to further reflect this change.

Currently the order provides a method for limiting the quantity of walnuts that can be marketed in domestic markets (United States, Puerto Rico, and the Canal Zone). These walnuts are referred to as free walnuts. The order also designates the portion of domestic production in excess of domestic needs as surplus and provides for its disposition in export and other noncompetitive outlets. The export market has become more important to the industry so it is now desirable

to add some stability to supplies of walnuts moving into this market.

The production of walnuts has increased rapidly in the last eight years from growth of established bearing trees and increased bearing acreage. This expansion is expected to continue from newly planted acreage. The average production for the four-year period 1967–1970 was 194.7 million pounds, and in the 1971–74 period it increased to 291.9 million pounds. It is projected that the production in 1980 could be as high as 586 million pounds.

The industry has had substantial success in expanding domestic markets to absorb some of the increased production. However, production continues to exceed domestic demand by a substantial amount. The industry also conducted considerable export development efforts which have partially offset increases in the quantities in excess of domestic needs. However, even with continued development efforts, supplies as large as those projected for 1980 may be too large to manage effectively without some type of export volume control. Another factor involved is that a significant portion of the industry's exports are to countries which are a part of the European Economic Community. Because a few of the European Economic Community countries are walnut producers, the industry is concerned that the European Economic Community may take action at some time to limit U.S. walnut exports into these countries.

Hence, supplies for export could be larger than needed and attempts to move excessive walnut supplies into that market could cause weak market conditions including depressed prices. Therefore, § 984.48 should be revised to give the Board authority to recommend the percentage of reserve walnuts that may be exported pursuant to § 984.56, when it determines that the quantity of reserve walnuts that may be exported should be limited. Whenever the Board recommends an export percentage pursuant to § 984.48(a)(7), the Secretary should establish a percentage if he finds it would tend to effectuate the declared policy of the act. The establishment of an export percentage pursuant to revised § 984.49 would keep the reserve walnuts in excess of those needed for export out of the export market. To do so would permit orderly marketing of adequate supplies at stable prices. The expected increase in walnut production may result in excess supplies which should be disposed of in outlets noncompetitive with developed domestic and export markets for merchantable walnuts. Maintaining adequate supplies and stable prices would contribute toward the protection of the domestic and export markets and the protection of grower returns.

However, it should be provided that walnuts withheld from export could be later released during the marketing year at any time prior to July 1, as they may be needed to meet unanticipated export demand. Thus, provision should be made for increasing the export percentage to release additional reserve walnuts to meet export demand if the need arises. Therefore, revised § 984.49 should specify that any time prior to July 1, the Board may recommend an increase in the export percentage, if it finds that there is an insufficient volume of reserve walnuts available for export and additionl demand exists, which would not adversely affect the disposition of the oncoming crop. Upon the basis of the Board's recommendation, or other information, the Secretary could then modify the percentage.

Between the effective period of the initial export percentage and July 1, information will normally become available to permit improved estimates of supplies and export requirements prior to the new crop. A Board recommendation to release additional reserve walnuts to export should not be delayed beyond the time when the reserve walnuts are needed for export since it is necessary to satisfy export demand while it exists. Thus, providing such authority would conform with the desirable objective of keeping the export market adequately supplied, but not oversupplied.

Once the initial export percentage of reserve walnuts of a marketing year is established, it should not be decreased because a handler may have already committed all of his reserve walnuts previously authorized for export or more reserve walnuts than provided by the reduced export percentage. Similarly, if the free percentage is increased on or prior to February 15 pursuant to revised § 984.49, the export percentage should also be increased, so that the quantity of reserve authorized for export would not be reduced by the export percentage.

The proposed revision of the first sentence in § 984.49(a) in the notice of hearing provided that "Whenever the Secretary finds, on the basis of the Board's recommendations or other information, that limiting the quantity of walnuts which may be handled during a marketing year would tend to effectuate the declared policy of the Act, he shall establish for California a free percentage to prescribe the portion of such walnuts which may be handled in normal markets, and a reserve percentage to prescribe the portion that must be withheld from such handling, and similarly for Oregon and Washington except that the reserve percentage shall be one-half that of California." At the hearing, the proponents supported substitution of the words "as free walnuts" for "normal markets" because the term "free walnuts" as defined in the order would be more specific. The record also supported deletion of the words "from such handling" immediately following the word "withheld", because the disposition of reserve walnuts would become an act of handling. It is also necessary to revise the sentence to recognize the recommended reduction in the area of production and to make it clear that the phrase "limiting the quantity of walnuts which may be handled" refers to the quantity of walnuts handled in domestic markets.

Hence, the first sentence should read: "Whenever the Secretary finds, on the basis of the Board's recommendations or other information, that limiting the quantity of walnuts which may be handled in domestic markets for merchantable free walnuts during a marketing year would tend to effectuate the declared policy of the Act, he shall establish a free percentage to prescribe the portion of such walnuts which may be handled as free walnuts, and a reserve percentage to prescribe the portion that must be withheld as reserve walnuts."

The final date for recommending an increase in the free precentage and a reduction in the reserve percentage should be February 15, rather than prior to February 15. This change would give the Board one more day to make such a recommendation. In a particular year, this extra day could be needed to prepare for and make such a recommendation.

In the notice of hearing, the proposed provisions of § 984.49(b)(2) stated that the revision of export percentage to release additional reserve walnuts for export should be permitted at any time during the marketing year. At the hearing, the proposal was modified to enable the Board to recommend a revision of the export percentage at any time prior to July 1. This proposal should be adopted.

Under normal rulemaking procedures, a minimum of three weeks will elapse between the time when the Board's recommendation is submitted to the Secretary for revision of the export percentage and the Department's action in establishing any revised percentage. Thus, if the Board's recommendation to increase the export percentage were made later than July 1, as proposed in the notice of hearing, the establishment of the revision would not occur until after July 31, the date when all reserve walnuts are proposed to be pooled by the Board. Hence, any recommended release of additional reserve walnuts into export markets after July 1 could not be made in time.

(5) The minimum grade and size regulations for the handling of inshell and shelled walnuts under the order are contained in § 984.50 (a) and (b), respectively. As discussed earlier, the recommended change in the definition of the term "To handle" would make the disposition of substandard walnuts an act of handling. Making such a change would require that substandard walnuts be subject to requirements of § 984.50 (a) and (b). However, substandard walnuts should not be covered under § 984.50 (a) and (b) because such walnuts, as defined in § 984.12 of the order, are walnuts of a quality below these minimum grade and size regulations. This change should be made by beginning the first sentences of paragraphs (a) and (b) with the words "Except as provided in § 984.64,".

Section 984.50(e) provides that the Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for

any walnuts acceptable in satisfaction of a surplus obligation. This paragraph should be revised by changing the word "surplus" to "reserve" wherever it appears in this paragraph. This revision would bring this paragraph into conformity with the recommended change in the order of changing from a surplus concept to a reserve concept. It should also be revised by replacing the words "in satisfaction of" with the words "for disposition for credit against". Under the recommended amendment of the order, handlers would be required to hold certified merchantable walnuts to meet a reserve obligation. However, lots of walnuts meeting the minimum requirements for reserve in § 984.50(e) would be acceptable for disposition for credit against a reserve obligation and such disposition would be a permissible reduction in the quantity of reserve walnuts a handler would be required to hold. The paragraph heading "Minimum requirements for surplus" was not included in the notice of hearing. This paragraph heading should be included but with the word "surplus" changed to "reserve" as a conforming change.

(6) In the notice of hearing, the proposed revision of § 984.51(a) required inspection and certification before or upon the handling of any walnuts or the disposition of any reserve walnuts. However, the record evidence revealed that under the order as recommended to be amended, all walnut sales, shipments, or dispositions by handlers are to be considered acts of handling and a distinction between handling and disposition of reserve is not needed. Also, only walnuts for use as free or reserve walnuts, including substandard walnuts which are offered as credit against a handler's reserve obligation, should be inspected and certified. Therefore, the proposed revision of the first sentence of paragraph (a) should be changed to provide that "Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations." The revision of this paragraph would further bring the order into conformity with the recomended change from a surplus concept to a reserve concept. Revision is also necessary to conform with the change in the basis of a reserve obligation from handlings or declarations for handling to merchantable certifications which is discussed in Material Issue (8).

The proposed revision of the last sentence of paragraph (a) in the notice of hearing provided that the Board may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part. The evidence of record indicates that this should be done through rulemaking.

Paragraph (b) of § 984.51 should be revised to provide that inshell merchantable walnuts certified shall be converted to the kernelweight equivalent at 45 percent of their inshell weight. To recognize changes which may occur from time to time, such as the introduction of new varieties, the authority for the Board, with the approval of the Secretary, to change this conversion percentage should be continued in effect.

Paragraph (c) of § 984.51 should be revised to provide that upon inspection, all walnuts for use as free and reserve walnuts shall be identified by tags, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or of a designated inspector, and such identification shall not be altered or removed except as directed by the Board. The proposal as published in the notice of hearing required all walnuts to be identified in such manner. However, the hearing evidence indicated that only free and reserve walnuts including substandard walnuts which are to be used for reserve credit needed to be identified in this manner. Identification of these walnuts is necessary for the Board to determine compliance with the quality, size, minimum kernel content requirements and volume regulations of the program.

The assessment requirements in § 984.69, as well as the holding requirements in § 984.54(b) should be incurred at the time walnuts are certified as merchantable. However, if a handler who had inshell walnuts certified as merchantable and for some reason subsequently decided to shell the lot, he should notify the Board of his intention to shell the lot, have the certification for the lot of inshell walnuts cancelled by the Board and his reserve and assessment obligations adjusted accordingly. After the walnuts were shelled, the handler would be required to have a new inspection and his reserve and assessment obligations recomputed on the basis of the kernelweight of shelled walnuts certified as merchantable.

The record evidence indicated that the grade and size regulations for walnuts moving into domestic and export markets should be the same to prevent inequities in applying any established volume regualtion.

(7) Section 984.35(a)(4) currently provides for a grower member and an alternate member to represent either independent growers or cooperative growers depending upon the volume of walnuts handled by the independent or cooperative handlers in California during a specified period. Section 984.37 (a) and (c) provide for the votes for each position on the Board of cooperative growers, and independent and cooperative handlers to be weighted by the quantity of the kernelweight of the merchantable walnuts handled during a specified period. These representation and nomination provisions should be changed to provide for weighting the vote of each of these groups, by the kernelweight of the walnuts certified as merchantable so that these provisions conform to the recommended change in the volume and assessment obligation base.

Section 984.37(g) provides a transition from the membership of the Walnut Control Board to the membership of the Walnut Marketing Board. This paragraph is obsolete and should be deleted.

(8) Section 984.54 should be revised to provide that whenever free and reserve percentages are in effect for a marketing year, each handler shall withhold a kernelweight of walnuts equal to the application of the reserve percentage to the kernelweight of merchantable walnuts certified. The kernelweight of certified merchantable walnuts handlers are required to withhold shall be designated as the "reserve obligation". Walnuts handled as free walnuts by any handler in accordance with the requirements of Part 984 shall be deemed to be that handler's quota fixed by the Secretary within the meaning of Section 8(a)(5) of the act.

The revision would change the basis of a handler's reserve obligation from the kernelweight of walnuts handled or declared for handling to the kernelweight of walnuts certified as merchantable. Also, the quantity of walnuts required to be withheld would be computed by applying the reserve percentage to the kernelweight of walnuts certified as merchantable rather than by dividing the surplus of percentage by the free percentage and applying the resultant withholding factor rounded to the nearest one-tenth of one percent, to the kernelweight of walnuts handled or declared for handling. These two changes should be made for the following reasons.

Handlers generally obtain inspection and certification of large lots of walnuts to have them available for later shipment in smaller quantities with a minimum of delay. Under the current provisions, a handler's surplus obligation is not known to him until he handles these walnuts or declares them for handling and it sometimes happens that a great deal of time elapses between inspection and certification, and handling. It is desirable that a handler know his reserve obligation sooner, namely at the time his walnuts are certified as merchantable, so that he can better plan his operations under any established volume regulation. Furthermore, the expansion of export markets and the likelihood of their continued growth are expected to cause some handlers to begin concentrating solely on exporting walnuts.

Under the current provisions of the order, such exported walnuts are free of surplus obligations as well as assessment obligations if the disposition credits are transferred to another handler with a withholding obligation because the disposition of surplus walnuts is not handling and not a part of the withholding obligation base. However, walnuts moving to export pursuant to this proposed provision and other provisions of the order would be regulated by these provisions since walnuts exported would be required to be certified as merchantable quality. As such, the handlers of these walnuts would be required to meet reserve obligations as well as assessment obligations established during a marketing year on these walnuts. Furthermore, in years when the percentage of reserve

walnuts for export is established all handlers would contribute pro rata to the pool established to divert walnuts from the domestic markets for merchantable free walnuts and export markets, and greater uniformity would be achieved in applying this volume regulation. More importantly, any percentage limitation on exports of reserve walnuts would prevent overloading the export market with excess supplies. The change in the basis of program assessments is discussed later in Material Issue (12).

Section 984.54(b) currently requires that each handler shall at all times hold in his possession or under his control in proper storage the quantity of walnuts necessary to meet his surplus obligation. Section 984.54(b) should be changed to provide that each handler shall, at all times, hold in his possession or under his control in proper storage the kernelweight of certified merchantable walnuts necessary to meet his reserve obligation. Requiring handlers to meet their holding requirements at the time of certification with certified merchantable walnuts will facilitate compliance because a handler's obligation can be determined as soon as the inspection is complete and the certification made available to the Board, shortly after inspection.

For the purposes of reserve management and handler compliance, § 984.54 should set forth the permissible reductions in the quantity of reserve walnuts a handler is required to hold. A handler's holding requirement should be reduced by any quantity disposed of by him in eligible reserve markets pursuant to § 984.56 and by any quantity for which he is otherwise relieved by the Board to so hold. For instance, the Board may relieve a handler from the holding requirements when he obtains credits for disposition in excess of a reserve obligation from another handler, when a handler delivers walnuts to the Board for disposition in reserve markets and crediting against his reserve obligation, or loss of reserve walnuts through conditions beyond the handler's control, such as through fire, flood, or earthquake.

Section 984.56 should specify the conditions governing the disposition of reserve walnuts. It should specifically provide that the Board has power and authority to sell or dispose of any and all reserve walnuts withheld upon the best terms and at the highest return obtainable consistent with the ultimate complete disposition of reserve. The Board may authorize disposition to government agencies, or export the quantity of reserve walnuts permitted to be exported by the export percentage established pursuant to § 984.49(b) to destinations outside the United States, Puerto Rico, and the Canal Zone. Reserve walnuts may be exported through handlers acting as agents of the Board under the terms and conditions specified by the Board.

Provisions should be included in § 984.56 specifically authorizing handlers to deliver walnuts to the Board for pooling at any time during the marketing year (August 1–July 31). Currently, the Board cannot accept delivery of surplus walnuts for pooling and disposition prior to making a determination, on or before December 15 of any marketing year, of the percentage of a handler's surplus obligation acceptable for pooling and disposition prior to February 15 of such year. This determination is no longer needed. Currently substandard walnuts which are of low quality, constituting a sanitation problem on the handler's premises, are delivered for pooling prior to February 15 of the marketing year. Since such lots of walnuts cannot be sold during the marketing year in commercial markets for merchantable walnuts without costly reconditioning, accepting such walnuts for pooling in excess of a handler's accrued reserve obligation on or prior to February 15 should cause no inequities to handlers even in years when initial volume percentages are revised to make more walnuts available to domestic markets for merchantable free walnuts. Currently, any surplus remaining unsold as of August 31, or for which a handler is not relieved by the Board of responsibility to hold, must be pooled and disposed of by the Board as soon as practicable through the most readily available surplus outlets. The record evidence indicates the pooling date should be changed to July 31. That is, any reserve walnuts that the handler as agent of the Board has not disposed of during the marketing year should be delivered to the Board for pooling on demand pursuant to § 984.56 (c). The quantity of reserve walnuts pooled would include the reserve walnuts in excess of those needed for export.

The evidence of record indicated that reserve walnuts not authorized for export should be available to supply export markets during the early part of the following marketing year if prospective market conditions indicate that additional walnuts would be needed. However, the requirement to pool reserve walnuts after July 31, the end of the marketing year, would prevent handler's from using such walnuts for this purpose. Therefore, the request is denied for this reason. The Board should be authorized to rent and operate or arrange for the use of facilities for storage and disposition of reserve walnuts delivered to it.

The proposed revision of § 984.56 in the notice of hearing omitted authority to permit handlers to act as agents of the Board to sell reserve walnuts to government agencies, charitable institutions, and other noncompetitive outlets, or make donations to such outlets as agents of the Board. However, the record indicates that the authority for handlers to sell reserve walnuts to government agencies as agents of the Board should remain in effect to facilitate government surplus removal purchases. Thus, § 984.56 should provide that the Board may dispose of reserve walnuts through handlers acting as agents of the Board under the terms and conditions specified by the Board. This will retain much of the flexibility given the Board in selling or disposing of reserve walnuts contained in the current § 984.56.

The record further indicates that authority to dispose of reserve walnuts in any new market(s) should be included in the administrative rules and regulations. Hence, any new market(s) would be specifically described in such rules and the reference to normal markets should be changed to markets noncompetitive with markets for merchantable free walnuts. Hence, the last sentence of paragraph (c) in the notice of hearing should be revised to read: "The Board shall dispose of these walnuts for use in the following outlets: Government agencies, charitable institutions, poultry or animal feed, walnut oil or other markets noncompetitive with markets for merchantable free walnuts."

The kernelweight of any walnuts disposed of in accordance with § 984.56 should be credited against the handler's reserve obligation. The proposal in the notice of hearing provided that at any time up to September 15 of the following marketing year, upon a handler's written request, the Board should transfer a part or all of the handler's disposition credit in excess of his reserve obligation to any handler he designates. However, the earlier proposal requiring the pooling of any undisposed reserve walnuts on demand after July 31 would make it impossible to transfer as late as September 15. Hence, this provision should be changed to limit such transfers to any time during the marketing year. This provision replaces similar provisions currently specified in § 984.58, and transferring it to § 984.56 improves order organization. Hence, § 984.58 should be deleted.

The proceeds remaining after the payment of all expenses required by the Board in receiving, holding, and disposing of pooled walnuts should be distributed pro rata by the Board to each handler in proportion to his contribution thereto, measured in kernelweight, or such other basis as the Board may adopt with the approval of the Secretary. Under the current order, the Board has disposed of all pooled walnuts in oil and feed outlets where the quality of walnuts makes little difference in the sales price. However, with larger production expected from established bearing trees and newly planted acreage, it is probable that walnuts of a quality better than substandard walnuts may be pooled and sold in outlets which pay a higher price than oil and feed outlets. For instance, some pooled walnuts may be sold in export or newly developed noncompetitive markets at much higher prices than returns from oil and feed outlets. Under such conditions, it would be desirable to treat each quality category of walnuts as a separate pool, charge each pool the applicable expense incurred by the Board in receiving, holding, and disposing of pooled walnuts, and distribute the remaining proceeds to the respective handlers whose walnuts were sold from each pool. Hence, different methods of distributing the remaining proceeds may be needed to assure equity.

Moreover, § 984.56 should also provide authority for the Board, with the appro-

val of the Secretary, to recommend necessary rules and regulations to carry-out the provisions of the section. The recommended provisions are designed to meet current needs, but changes in the industry, impossible to anticipate such as the development of new marketing opportunities, may necessitate a revision of these provisions. Currently, § 984.56 contains provisions authorizing handlers as agents of the Board to donate surplus walnuts to charitable institutions and noncompetitive outlets; specifying the dates by a handler as agent of the Board must file his intention to dispose of and ship surplus walnuts; providing that surplus disposition shall be made with safeguards to prevent them from entering normal markets and specifying that the Board shall not demand delivery of surplus walnuts which a handler has agreed to undertake disposition under the Board's authority, indicating where and how delivery of pooled surplus walnuts is to be made. Obviously, the matters covered by these provisions are very complex and changes brought about by revision of § 984.56 venture into new areas which make it impossible to determine at this time what problems and situations may arise as a result of this revision. The evidence of record indicates that the aforementioned provisions should be handled through rulemaking. Hence, they should be deleted from the order, and in the interest of flexibility, placed in the rules and regulations.

(9) Section 984.57, "Declaration privilege", currently provides handlers with an option as to whether or not walnuts being carried into the next marketing year should be subject to the volume and assessment regulations of the current marketing year or the next marketing year. As discussed earlier under Material Issue (6), reserve and assessment obligations would be incurred at the time walnuts are certified as merchantable. Thus, a handler who desired carryover walnuts to be subject to the requirements of the then current marketing year merely has to grade them and arrange to have them inspected and certified as merchantable. If he does not want the obligations of the then current marketing year to apply, he could defer having the walnuts inspected until the next marketing year. Hence, the order, as recommended to be amended, provides handlers the same option as currently provided by § 984.57. Thus, § 984.57 should be deleted.

(10) In view of the recommended change in the order from a surplus concept to reserve concept, it is necessary to make conforming changes in the interhandler provisions in § 984.59. In paragraph (b) the word "surplus" should be changed to "reserve" wherever it appears. The proposed revision in § 984.59 in the notice of hearing removed the authority of the Board, with the approval of the Secretary, to establish methods and procedures for interhandler transfers. The record discloses that this flexibility is necessary for proper administration of the interhandler transfer provisions and that the authority should be retained in paragraph (b). The proponents also proposed that it should be made clear that the buyer assumes any outstanding assessment and reserve obligations, and inspection requirements with respect to walnuts transferred. The evidence of record indicates that this proposal should be adopted.

(11) Section 984.64, "Disposition of substandard walnuts", should be revised to provide that substandard walnuts may be disposed of only for manufacture into oil, livestock feed, or for such other uses as the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts. It should also require that such disposition be made with proper safeguards to prevent such walnuts from thereafter entering the channels of trade in existing domestic markets for merchantable free walnuts and export markets. Whenever free and reserve percentages are in effect, any walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e), may be pooled and the disposition credited to the handler's reserve obligation pursuant to § 984.56. The authority for this practice has been implicit in the order since the inception of overall volume regulation in 1954 on inshell and shelled walnuts. The authority should be expressly stated in § 984.64. Furthermore, the provisions currently in § 984.75 on reports of disposition of substandard walnuts should be placed in revised § 984.64 to improve order organization. Hence, Section 984.75, "Reports of disposition of substandard walnuts" is no longer needed under the order as recommended for amendment and should be deleted.

In the notice of hearing, the proposal to revise § 984.64 contained the term "normal markets". The hearing record discloses that this term refers to existing domestic markets and export markets for merchantable walnuts and that these more specific terms should be used in place of "normal markets".

Current § 984.66, "Assistance of Board in meeting surplus obligation", should be retitled "Assistance of Board in meeting reserve obligation" and the word "surplus" should be changed to "reserve" wherever it appears in this section to reflect the recommended change in the order from a surplus concept to reserve concept.

The word "surplus" should be changed to "reserve" wherever it appears in § 984.67, "Exemptions". This is to bring this section into conformity with the change in the order from a surplus concept to a reserve concept.

(12) Section 984.68 requires the Board to file a proposed budget of total expenses and rates of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

Currently, § 984.68 provides that the budget be allocated between inshell and shelled walnuts handled or declared for handling on the basis of estimated costs of the respective operations. Such apportionment was necessary as a basis for establishing assessment rates pursuant to § 984.69, levied on inshell walnuts handled or declared for handling and shelled walnuts handled or declared for handling, respectively. At one time only inshell walnuts were regulated under the order. After 1954, when authority for regulating shelled walnuts was added to the order there were two distinct operations carried out under one marketing program. Volume regulation now applies equally to both inshell and shelled walnuts. Hence, there is no reason to continue the apportionment between inshell and shelled operations in § 984.68, or the establishment of separate assessment rates for inshell and shelled walnuts required in current § 984.69.

The provisions of program assessments in § 984.69 should also be revised to change the basis for determination of the burden of expenses by handlers. Currently, the basis is the quantity of inshell and shelled walnuts handled or declared for handling. This basis should be changed to the kernelweight of certified merchantable inshell or shelled walnuts handled. This change is necessary to conform the basis for program assessments to the basis for volume regulation. The new basis will provide a practical and realistic method of computing handlers' pro rata shares of expenses in operating the program. For practical administration, the assessment obligation should accrue at the time that walnuts are certified as merchantable and the weight of inshell walnuts certified as merchantable should be converted to the kernelweight equivalent at the conversion percentage established pursuant to § 984.51(b).

(13) The provisions of § 984.77, "Verification of reports", should be revised to more accurately reflect their purpose of authorizing the check and verification of reports filed by handlers, or the operations of handlers. At the hearing, the proponents proposed several changes in the proposed revision contained in the notice of hearing. The proposed revision in the notice of hearing gave the Board access to any handler's premises wherein walnuts may be held by such handler. However, it was brought out at the hearing that if a handler maintained his records at a premise different from where the walnuts were held, these records would not be covered under this provision and the Board could be denied access to them. Since all records are needed for verifying and checking reports filed by handlers or the operations of handlers, the proponents proposed that the provisions be revised so that the Board would have access to any premises where walnuts or records pertaining to walnuts are held. This proposal should be adopted, in accordance with the record evidence.

Proponents also proposed that the provisions be brought into conformity with § 984.80 which directs a handler to maintain books and records of walnuts received, held, and disposed of by him, and expressly states the right of the Secretary to verify such handler records. This should be adopted particularly since the proposed revision of § 984.77 did not pro-

vide for reports of handler receipts or expressly state the rights of the Secretary. Also, the proponents proposed that the Board, with the approval of the Secretary, be authorized to establish methods or procedures for verification of reports. For instance, if a handler refuses authorized representatives of the Secretary access to his wanuts or records, the Board could disallow the handler credit against his reserve obligation until he allowed authorized representatives access to his records or walnuts.

In the notice of hearing, the last two sentences of current §984.77 were omitted. The proponents proposed that the two sentences be retained, with the exception of the words "restricted" and "surplus" in the last sentence which should be deleted since the word "restricted" is not used in the current order, and the word "surplus" would not be used in the order as recommended to be amended. Each of these proposals should be adopted for the reasons stated.

(14) Some of the amendatory actions herein cause the need to make certain conforming changes, as hereinafter set forth, in the provisions of the order so that the order as amended, will be in conformity with those actions. Such changes are discussed herein with the issues to which pertinent. All such changes should be incorporated herein.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed March 5, 1976, as the final date for interested person to file proposed findings and concluusions, and written arguments or briefs, based upon the evidence received at the hearing.

One brief was filed on behalf of interested persons. This brief and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

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

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of walnuts grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of walnuts grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of walnuts grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

RECOMMENDED AMENDMENT OF THE MARKETING AGREEMENT AND ORDER

The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Revise § 984.4 to read:

§ 984.4 Area of production.

"Area of production" means the State of California.

2. Revise § 984.8 to read:

§ 984.8 Walnuts.

"Walnuts" means only walnuts of the "English" (Juglans regia) varieties grown in California.

§ 984.13 [Amended]

3. Amend § 984.13 by deleting "(a)" and the words, "or (b) the authorized disposition of surplus or substandard walnuts", in the exception.

§ 984.21 [Amended]

4. Amend § 984.21 by changing the word "surplus" to "reserve".

5. Revise § 984.26 to read:

§ 984.26 Reserve walnuts.

"Reserve walnuts" means those walnuts which are held to meet a reserve obligation.

6. Revise § 984.31 to read:

§ 984.31 Part and subpart.

"Part" means the order regulating the handling of walnuts grown in California, and all rules, regulations, and supplementary orders issued thereunder. This order regulating the handling of walnuts grown in California shall be a "subpart" of such part.

7. Revise § 984.32 to read:

§ 984.32 To certify.

"To certify" means the issuance of a certification of inspection of walnuts by the inspection service.

8. Revise § 984.33 to read:

§ 984.33 Hold.

"Hold" means to maintain possession or keep control of, in proper storage at all times, the kernelweight of certified merchantable walnuts necessary to meet a reserve obligation.

9. Revise § 984.35 to read:

§ 984.35 Walnut Marketing Board.

(a) A Walnut Marketing Board is hereby established consisting of 10 members selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member. The members and their alternates shall be selected by the Secretary from nominees submitted by each of the following groups or from other eligible persons belonging to such groups:

(1) Two members to represent cooperative handlers;

(2) Two members to represent independent handlers;

(3) Two members to represent growers who market their walnuts through cooperative handlers;

(4) One member to represent growers who market their walnuts through cooperative handlers or independent handlers, whichever category of such handlers had certified as merchantable more than 50 percent of the kernelweight of all walnuts certified as merchantable by all handlers during the two marketing years preceding the year in which nominations were made—the member representing growers who market their walnuts through independent handlers shall be nominated at large in the State of California;

(5) One member to represent growers from District 1 who market their walnuts through independent handlers; and

(6) One member to represent growers from District 2 who market their walnuts through independent handlers.

(b) The tenth member and alternate shall be selected after the selection of the nine members from the groups specified in paragraph (a) of this section and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his alternate shall be neither a walnut grower nor a handler.

(c) Grower Districts:

(1) *District 1.* District 1 encompasses the counties in the State of California that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties.

(2) *District 2.* District 2 shall consist of all other walnut producing counties in the State of California south of the boundary line set forth in subparagraph (1) of this paragraph.

(3) The Secretary on the basis of a recommendation of the Board or other

information may establish different districts within the area of production.

§ 984.36 [Amended]

10. Amend § 984.36 by deleting the words "nonvoting delegate" immediately preceding the words "and their alternates".

§ 984.37 [Amended]

11. Amend § 984.37 as follows:

(a) In paragraph (a), revise the second sentence to read: The vote of each such handler shall be weighted by the kernelweight of the walnuts certified as merchantable during the preceding marketing year for each such handler.

(b) In the first sentence of paragraph (c), delete the words "and the nonvoting delegate" immediately after the words "Nominations for all handler members". Also, revise the second sentence to read as follows: "All handlers' votes shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year".

(c) In paragraph (d) delete the word "voting" wherever it appears.

(d) Delete paragraph (g).

12. Revise § 984.38 to read:

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member or alternate to represent one of the groups specified in § 984.35(a) (1) through (6), unless he is engaged in the business he is to represent, or represents, either in his own behalf or as an officer or employee of the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he is to represent.

§ 984.39 [Amended]

13. Amend § 984.39 by deleting the words, "nonvoting delegate," immediately after the words "Each person selected by the Secretary as a member" and change the word "practical" to "practicable".

14. Amend § 984.40 by revising paragraph (a) and by deleting the words "in the same state" immediately after the words "cooperative grower group" in the last sentence of paragraph (b). Revised paragraph (a) reads as follows:

§ 984.40 Alternate.

(a) An alternate for a member of the Board shall act in the place and stead of such member in his absence or in the event of his death, removal, resignation, or disqualification, until a successor for his unexpired term has been selected and has qualified.

* * * * *

§ 984.41 [Amended]

15. Amend § 984.41 by deleting the words, "nonvoting delegate", wherever they appear.

§ 984.42 [Amended]

16. Amend § 984.42 by deleting the words, "nonvoting delegate,".

17. Revise § 984.48(a)(6), renumber § 984.48(a)(7) and (8) as § 984.48(a)(8) and (9) respectively, and add a new subparagraph § 984.48(a)(7) to read:

§ 984.48 Marketing estimates and recommendations.

(a) * * *

(6) Its recommendation as to the free and reserve percentages to be established for walnuts;

(7) Its recommendation of the percentage of reserve walnuts that may be exported pursuant to § 984.56, when it determines that the quantity of reserve walnuts that may be exported should be limited;

* * * * *

18. Revise § 984.49 to read:

§ 984.49 Volume regulation.

(a) *Free, reserve, and export percentages.* Whenever the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of walnuts that may be handled in domestic markets for merchantable free walnuts during a marketing year will tend to effectuate the declared policy of the act, he shall establish a free percentage to prescribe the portion of such walnuts which may be handled as free walnuts, and a reserve percentage to prescribe the portion that must be withheld as reserve walnuts. Whenever the Board recommends an export percentage pursuant to § 984.48(a)(7), the Secretary shall establish a percentage if he finds it would tend to effectuate the declared policy of the act.

(b) *Revision of percentages.* (1) On or before February 15 of the marketing year, the Board may recommend that the free percentage be increased and the reserve percentage be decreased. On the basis of the Board's recommendation or other information the Secretary may establish such revisions. If the reserve percentage is reduced when an export percentage is in effect, an increase shall be made in the export percentage so that the quantity previously authorized for export will not be reduced. If the revised reserve quantity is less than the quantity previously authorized for export the export percentage shall be 100 percent. Upon revision, all reserve obligations that are theretofore accrued on merchantable walnuts certified during such year on the basis of the previously effective percentages shall be adjusted accordingly.

(2) Any time prior to July 1, the Board may recommend an increase in the export percentage, if it finds that there is an insufficient volume of reserve walnuts available for export and additional demand exists, which would not adversely affect the disposition of the oncoming crop. On the basis of the Board's recommendation or other information, the Secretary may establish such revision.

19. Revise § 984.50 (a), (b), and (c) to read:

§ 984.50 Grade and size regulations.

(a) *Minimum standard for inshell walnuts.* Except as provided in § 984.64, no handler shall handle inshell walnuts unless such walnuts are equal to or better than the requirements of U.S. No. 2 grade and baby size as defined in the then effective United States Standards for Walnuts (Juglans regia) in the Shell. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

(b) *Minimum standard for shelled walnuts.* Except as provided in § 984.64, no handler shall handle shelled walnuts unless such walnuts are equal to or better than the requirements of the U.S. Commercial grade as defined in the then effective United States Standards for Shelled Walnuts (Juglans regia) and the minimum size shall be pieces not more than 5 percent of which will pass through a round opening 6/64 inch in diameter. This minimum standard may be modified by the Secretary on the basis of a Board recommendation or other information.

* * * * *

(e) *Minimum requirements for reserve.* The Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for any lot of walnuts acceptable for disposition for credit against a reserve obligation: *Provided,* That reserve walnuts exported must meet the requirements of paragraph (a) of this section if inshell, or paragraph (b) of this section if shelled.

20. Revise § 984.51 (a), (b), and (c) to read:

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations. Such inspection shall be performed by the inspection service designated by the Board with the approval of the Secretary. Handlers shall obtain a certificate for each inspection and cause a eopy of each certificate issued by the inspection service to be furnished to the Board. Each certificate shall show the identity of the handler, quantity of walnuts, the date of inspection, and for inshell walnuts the grate and size of such walnuts as set forth in the United States Standards for Walnuts (Juglans regia) in the Shell. Certificates covering reserve shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts (Juglans regia). The Board, with the approval of the Secretary, may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part.

(b) Inshell merchantable walnuts certified shall be converted to the kernelweight equivalent at 45 percent of their inshell weight. This conversion percentage may be changed by the Board with the approval of the Secretary.

(e) Upon inspection, all walnuts for use as free or reserve walnuts shall be identified by tags, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or of a designated inspector and such identification shall not be altered or removed except as directed by the Board. The assessment requirements in § 984.69 shall be incurred at the time of certification.

* * * * *

21. Revise the center heading preceding § 984.54 to read "Reserve Walnuts", and revise § 984.54 to read:

RESERVE WALNUTS

§ 984.54 Establishment of obligation.

(a) *Reserve obligation.* Whenever free and reserve percentages are in effect for a marketing year, each handler shall withhold a kernelweight of certified merchantable walnuts equal to a quantity derived by the application of the reserve percentage to the kernelweight of merchantable walnuts certified. The kernelweight of certified merchantable walnuts which handlers are required to withhold shall be the "reserve obligation." The walnuts handled for use as free walnuts by any handler in accordance with the provisions of this part shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8(a)(5) of the act.

(b) *Holding requirements.* Each handler shall at all times hold in his possession or under his control in proper storage the kernelweight of certified merchantable walnuts necessary to meet his reserve obligation less: (1) Any quantity which was disposed of by him pursuant to § 984.56; and (2) any quantity for which he is otherwise relieved by the Board of responsibility to so hold walnuts.

22. Revise § 984.56 to read:

§ 984.56 Disposition of reserve walnuts.

(a) *General.* The Board shall have power and authority to sell or dispose of any and all reserve walnuts withheld upon the best terms and at the highest returns obtainable consistent with the ultimate complete disposition of reserve, subject to all conditions of this section. The Board may dispose of reserve walnuts through handlers acting as agents of the Board under the terms and conditions specified by the Board.

(b) *Export.* The Board may export or authorize the disposition in export to the destinations outside the United States, Puerto Rico, and the Canal Zone, the quantity of reserve walnuts permitted to be exported by the export percentage establishment pursuant to § 984.49. Reserve walnuts may be exported by any handler as an agent of the Board under the terms and conditions specified by the Board.

(c) *Pooling.* At any time during the marketing year a handler may deliver reserve walnuts and any substandard walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e) to the Board for pooling and crediting against his reserve obligation. Any reserve walnuts that the handler as agent of the Board has not disposed of by the end of the marketing year shall thereafter be delivered to the Board for pooling on demand. The Board shall dispose of these walnuts for use in the following outlets: Government agencies, charitable institutions, poultry or animal feed, walnut oil or other markets noncompetitive with markets for merchantable free walnuts. The Board may rent and operate or arrange the use of facilities for storage and disposition of reserve walnuts delivered to it.

(d) *Crediting.* The kernelweight of walnuts disposed of in accordance with this section shall be credited to the handler's reserve obligation. At any time during the marketing year, upon a handler's written request, the Board shall transfer part or all of the handler's credit in excess of his reserve obligation to any handler he designates.

(e) *Pool proceeds.* The proceeds remaining after the payment of all expenses incurred by the Board in receiving, holding and disposing of pooled walnuts shall be distributed pro rata by the Board to each handler in proportion to his contribution thereto, measured in kernelweight, or such other basis as the Board may adopt with the approval of the Secretary.

(f) *Rules and regulations.* The Board, with the approval of the Secretary, may prescribe such rules and regulations as are necessary to carry out the provisions of this section.

§ 984.57 [Reserved]

23. Delete § 984.57.

§ 984.58 [Reserved]

24. Delete § 984.58.

25. Revise §984.59(b) to read:

§ 984.59 Interhandler transfers.

* * * * *

(b) A handler may, for the purpose of meeting his reserve obligation, acquire walnuts for another handler, and any assessments, reserve obligations, and inspection requirements with respect to walnuts so transferred, shall be assumed by the buying handler. The Board, with the approval of the Secretary, may establish methods and procedures including necessary reports for such transfers.

* * * * *

26. Revise § 984.64 to read:

§ 984.64 Disposition of substandard walnuts.

Substandard walnuts may be disposed of only for manufacture into oil, livestock feed, or such other uses as the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts and with proper safeguards to prevent such walnuts from thereafter entering channels of trade in such markets. Wherever free and reserve percentages are in effect, the kernelweight of any walnuts meeting the minimum kernel content requirements effective pursuant to § 984.50(e), may be pooled and the disposition credited to the handler's reserve obligation pursuant to § 984.56. Each handler shall submit, in such form and at such intervals as the Board may determine, reports of (a) his production and holdings of substandard walnuts and (b) the disposition of all substandard walnuts to any other person, showing the quantity, lot, date, name and address of the person to whom delivered, the approved use and such other information pertaining thereto as the Board may specify.

27. Revise § 984.66 to read:

§ 984.66 Assistance of the Board in meeting reserve obligation.

The Board may assist any handler in accounting for his reserve obligation and may aid any handler in acquiring walnuts to meet any deficiency in his reserve obligation, or in accounting for, or disposing of reserve walnuts.

28. Revise § 984.67(a) to read:

§ 984.67 Exemptions.

(a) *Exemption from volume regulation.* Reserve percentages shall not apply to lots of merchantable inshell walnuts which are of mammoth size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

* * * * *

29. Revise § 984.68 to read:

§ 984.68 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each marketing year for the maintenance and functioning of the Board, and for such other purposes as the Secretary may, pursuant to this part, determine to be appropriate. The Board shall file a proposed budget of expenses and a rate of assessment with the Secretary as soon as practicable after the beginning of each marketing year.

30. Revise § 984.69 (a) and (b) to read:

§ 984.69 Assessments.

(a) *Requirement for payment.* Each handler shall pay the Board, on demand, his pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment per kernelweight pound of walnuts fixed by the Secretary times the kernelweight of merchantable walnuts he has certified. At any time during or after the marketing year the Secretary may increase the assessment rate as necessary to cover authorized expenses and each handler's pro rata share shall be adjusted accordingly.

(b) *Reserve walnut pool expenses.* The Board is authorized temporary use of funds derived from assessments collected pursuant to paragraph (a) of this section to defray expenses incurred in

disposing of reserve walnuts pooled. All such expenses shall be deducted from the proceeds obtained by the Board from the sale or other disposal of pooled reserve walnuts.

§ 984.74 [Reserved]

* * * * *

31. Delete § 984.74.

§ 984.75 [Reserved]

32. Delete § 984.75.

33. Revise § 984.77 to read:

§ 984.77 Verification of reports.

For the purpose of verifying and checking reports filed by handlers or the operations of handlers, the Secretary and the Board through its duly authorized representatives shall have access to any premises where walnuts and walnut records are held. Such access shall be available at any time during reasonable business hours. Authorized representatives shall be permitted to inspect any walnuts held and any and all records of the handler with respect to matters within the purview of this part. Each handler shall maintain complete records on the receiving, holding, and disposition of both inshell and shelled walnuts. Each handler shall furnish all labor necessary to facilitate such inspections at no expense to the Board or the Secretary. Each handler shall store all walnuts held by him in such manner as to facilitate inspection and shall maintain adequate storage records which will permit accurate identification with respect to inspection certificates of respective lots and of all such walnuts held or disposed of theretofore. The Board, with the approval of the Secretary, may establish any methods and procedures needed to verify reports.

§ 984.84 [Amended]

34. Amend § 984.84 by deleting the words "nonvoting delegate," wherever they appear.

§ 984.89 [Amended]

35. Amend § 984.89(b)(3) by changing the word "States" to "State" and by deleting the words "Oregon and Washington" immediately preceding the proviso.

Signed in Washington, D.C. on May 25, 1976.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.76-15747 Filed 5-28-76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 206 and 207]

MISCELLANEOUS FEES AND STATISTICAL DATA FOR USE IN OPERATING-DIFFERENTIAL APPLICATION HEARINGS

Extension of Comment Period

In FR Doc. 76-12229 appearing in the FEDERAL REGISTER on April 28, 1976, (41 FR 17750) notice of proposed rulemaking was given covering revision of miscellaneous fees and procedures for furnishing statistical data under Subpart A of Part 206 of Title 46 of the Code of Federal Regulations, inviting comment thereon by Wednesday, May 12, 1976.

In FR Doc. 76-14036, appearing in the FEDERAL REGISTER on May 13, 1976 (41 FR 19651) said notice of proposed rulemaking was amended to extend the date of submission of written comments to the close of business May 26, 1976.

Said notice is further amended to extend the date of submission of written comments to close of business on Wednesday, June 9, 1976, with the understanding that there will be no further extensions.

By order of the Maritime Subsidy Board, Maritime Administration.

Dated: May 26, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-15875 Filed 5-28-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 15728]

AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation Ltd. DH-104 Airplanes

Amendment 289 to Part 507 of the Regulations of the Administrator (ROA) (26 FR 4395), AD 61-11-3, as amended by Amendment 585 (28 FR 7394) and Amendment 662 (28 FR 14238), imposes mandatory retirement lives for certain structural components of the wing and fuselage center section and the entire wing assembly on Hawker Siddeley Aviation Ltd. Model DH-104 airplanes. After issuing these amendments, due to service experience, the FAA has determined that further reductions in the retirement lives specified are necessary. Therefore, the FAA is considering superseding Amendment 289 to Part 507 of the ROA as amended, with a new AD that would reduce the retirement lives for certain wing and fuselage center section structural components of the Hawker Siddeley Aviation Ltd. Model DH-104 airplanes. In addition, the superseding AD would contain a provision to provide for extensions of the specified retirement lives if justified by the operator.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue S.W., Washington, D.C. 20591. All communications received on or before July 1, 1976, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

This amendment is proposed 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 of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to deHavilland Model DH-104 "Dove" airplanes, all series, certificated in all categories. Compliance is required as indicated.

To prevent possible fatigue failure of the wing structure, accomplish the following:

(a) Irrespective of the incorporation of Hawker Siddeley Aviation Ltd. (HSA) Modification 539, for wings which have not had HSA Modification 780 incorporated, within the next 25 hours time in service after the effective date of this AD or prior to accumulation of 3400 hours' total time in service, whichever occurs later, and thereafter at intervals not to exceed 3400 hours time in service, replace the wing lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

(b) For wings which incorporate HSA Modification 780, replace the wing lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

(1) For Series 1A, 2A, 5A, 5BA, 6A, and 6BA airplanes, prior to the accumulation of 20,000 hours total time in service, including the time in service prior to incorporation of the modification; and

(2) For Series 7A and 8A airplanes, prior to the accumulation of 16,000 hours total time in service on the boom including the time in service prior to incorporation of the modification.

(c) For airplanes which do not incorporate HSA Modification 538 in the area of the fuselage center section, within the next 25 hours time in service after the effective date of this AD or prior to the accumulation of 1800 hours total time in service, whichever occurs later, and thereafter, at intervals not to exceed 1800 hours time in service, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

(d) For airplanes which incorporate HSA Modification 538 in the area of the fuselage center section, within the next 25 hours time in service after the effective date of this AD or prior to the accumulation of 6700 hours total time in service, including time in service prior to incorporation of the modification, whichever occurs later, and thereafter at intervals not to exceed 6700 hours time in service, replace the fuselage center section lower spar boom with a serviceable boom of the same part number or an FAA-approved equivalent.

NOTE.—For airplanes which incorporate HSA Modification 779 in the area of the fuselage center section, no mandatory retirement time is imposed on the fuselage center section lower spar boom.

(e) Upon the request of an operator, the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East region may adjust a

replacement interval specified in paragraphs (a), (c), or (d) of this AD, if the request contains substantiating data to indicate that the average operating spectrum of the particular airplane is less severe than the operating spectrum upon which the specified replacement times are based and that the adjustment requested is justified. Forward requests to FAA, Chief, Aircraft Certification Staff, c/o American Embassy, APO New York, N.Y. 09667.

NOTE.—Appendix 1 of HSA Technical News Sheet (TNS) No. 119, Issue 10, dated July 19, 1971, contains information with respect to data needed to determine an average operating spectrum.

(f) Unless already accomplished, on airplanes converted to series 7AXC or 8AXC in accordance with HSA TNS No. 181, Issue 3, dated November 21, 1966, replace the wings prior to the accumulation of 16,000 hours total time in service since new plus one-fifth of the hours time in service prior to the conversion as determined in accordance with the instructions in paragraph 7 of HSA TNS No. 181, Issue 3, dated November 21, 1966, or an FAA-approved equivalent.

This amendment would supersede Amendment 289 to Part 507 of the Regulations of the Administrator (26 FR 4395), AD 61-11-3, as amended by Amendment 585 (28 FR 7394) and Amendment 662 (28 FR 14238).

Issued in Washington, D.C. on May 24, 1976.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.76-15679 Filed 5-28-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-WA-4]

ALTERATION OF TERMINAL CONTROL AREA

Denver, Colorado: Correction

In FR Doc. 76-13006 on page 18683 in the FEDERAL REGISTER of May 6, 1976, the following corrections are made:

Area A

1. In line ten delete "17L" and substitute "17R".

2. In line 11 delete "35L to along" and substitute "35L to and west along" therefor.

3. In line 26 delete "R-26" and substitute "P-26" therefor.

Area B

1. In line five delete "west of Denver VORTAC 180°T radial" and substitute "west by Denver VORTAC 180°T (167° M) radial" therefor.

Issued in Washington, D.C., on May 24, 1976.

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

[FR Doc.76-15726 Filed 5-28-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-RM-9]

FEDERAL AIRWAYS

Extension and Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate V-380 from O'Neill, Nebr., to Mankato, Kans., and extend V-71 from Columbus, Nebr., to Bismarck, N. Dak.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received on or before July 1, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APO-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would designate V-380 from O'Neill, Nebr., direct Wolbach, Nebr., direct Grand Island, Nebr., direct Hastings, Nebr., to Mankato, Kans. Also, V-71 would be extended from Columbus, Nebr., direct O'Neill, direct Winner, S. Dak., direct Pierre, S. Dak., direct Bismarck, N. Dak.

The two airways would shorten routes from North and South Dakota locations to Nebraska and Kansas locations and would contribute to a more efficient traffic flow by providing an additional north/south route to relieve traffic converging over Omaha.

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

Issued in Washington, D. C., on May 24, 1976.

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

[FR Doc.76-15727 Filed 5-28-76;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 76-WA-6]

JET ROUTES

Extension and Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would establish nine jet routes and extend five existing jet routes.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received on or before July 1, 1976 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief. Request for copies of this Notice of Proposed Rule Making should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, S.W., Washington, D.C. 20591.

The proposed amendment would establish the following jet routes:

1. J-196 from Bryce Canyon, Utah, via INT Bryce Canyon 048°T(033°M) and Meeker, Colo., 247°T(232°M); to Meeker.

2. J-197 from Gunnison, Colo., via INT Gunnison 083°T(069°M) and Goodland, Kans., 251°T(239°M); Goodland; Wolbach, Nebr.; to Sioux Falls, S. Dak.

3. J-198 from Linden, Calif., via INT Linden 063°T(046°M) and Mina, Nev., 298°T (281°); Mina; Wilson Creek, Nev.; INT Wilson Creek 075°T(059°M) and Meeker, Colo., 247°T(232°M); to Meeker.

4. J-199 from Wilson Creek, Nev., via Delta, Utah; INT Delta 068°T(052°M) and Meeker, Colo. 262°T(247°M); to Meeker.

5. J-200 from Linden, Calif., via INT Linden 021°T(004°M) and Sacramento, Calif., 048°T(029°M); INT Sacramento 048°T (029°M) and Battle Mountain, Nev., 253°T (235°M); to Battle Mountain.

6. J-201 from Myton, Utah, via INT Myton 056°T(040°M) and Rock Springs, Wyo., 084°T(068°M); to Scottsbluff, Nebr.

7. J-202 from Fairfield, Utah, via INT Fairfield 026°T(010°M) and Rock Springs, Wyo., 249°T(233°M); Rock Springs; to Casper, Wyo.

8. J-203 from Billings, Mont., via INT Billings 347°T(330°M) and Great Falls, Mont., 092°T(073°M); to Great Falls.

9. J-204 from Dupree, S. Dak., via Miles City, Mont.; INT Miles City 295°T(280°M) and Great Falls, Mont., 092°T(073°M); to Great Falls.

The proposed amendment would extend the following jet routes:

1. J-36 from Dickinson, N. Dak., via Great Falls, Mont., to Mullan Pass, Idaho.

2. J-136 from Spokane, Wash., via Mullan Pass, Idaho; INT Mullan Pass 101°T(081°M) and Billings, Mont., 301°T(284°M); to Billings.

3. J-151 from Billings, Mont., via INT Billings 266°T(249°M) and Whitehall, Mont., 103°T(085°M); to Whitehall.

4. J-154 from Battle Mountain, Nev., via INT Battle Mountain 253°T(235°M) and Sacramento, Calif., 048°T(029°M); to Sacramento.

5. J-158 from Malad City, Idaho, via INT Malad City 087°T(070°M) and Casper, Wyo., 241°T(226°M); Casper; Rapid City, S. Dak.; to Aberdeen.

The routes proposed in this proposal would increase the number of charted routes available for use when certain meteorological conditions (mountain wave turbulence) exist.

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

Issued in Washington, D.C., on May 25, 1976.

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

[FR Doc.76-15728 Filed 5-28-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 372a]

[SPDR-44; Docket 28063; Dated May 18, 1976]

POST-FLIGHT ACCOUNTING REPORTS

Proposed Elimination of Requirement

Correction

In FR Doc. 76-14965, appearing on page 20894 of the issue of Friday, May 21, 1976, the headings should read as set forth above.

CIVIL SERVICE COMMISSION

[5 CFR Part 890]

HEALTH BENEFITS

Application for Approval of Health Benefits Plans

Correction

In FR Doc. 76-15348 appearing on page 21359 in the FEDERAL REGISTER of Tuesday, May 25, 1976, in the second column, in § 890.301(d)(2), the eighth line should read, "of this part for participation ef-".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 78]

[FCC 76-469; Docket No. 20816]

FREQUENCY ASSIGNMENTS

Notice of Proposed Rulemaking

In the matter of amendment of part 78 of the Commission's rules and regulations to establish guidelines for the selection of Group K channels, and to amend the channel boundaries of certain Group C and D channels.

By the Commission: 1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. In the Cable Television Relay Service (CARS) we are concerned that the present rules may not insure the most efficient use of the spectrum when applicants propose to use multiple Group K channels. The CARS band is divided into several overlapping channel groups, including 20 Group K (12.5 MHz) channels and 10 Group A (25 MHz) channels. By selecting 10 Group K channels, e.g., every other channel, an applicant could effectively preclude the use of all Group A channels by a subsequent applicant desiring to operate a CARS system in the same area. Since such use of the spectrum would not be efficient, we are proposing rules which would require that an applicant for Group K channels select adjacent channels and that the channels selected overlap the least possible number of Group A channels.

3. We also propose to amend the channel boundaries of four vestigial sideband AM channels. Channels C$\emptyset$7–C1$\emptyset$ and D$\emptyset$7–D1$\emptyset$ presently have a 24 MHz bandwidth and are generally used to relay the entire 20 MHz FM broadcast radio band. We propose to reduce the bandwidth of channels C1$\emptyset$ and D1$\emptyset$ from 6 MHz to 2 MHz, thereby reducing the total bandwidth of channels C$\emptyset$7–71$\emptyset$ and D$\emptyset$7–D1$\emptyset$ to 20 MHz, which is all that is required to relay the entire FM band. We propose to allocate the remaining 4 MHz from channels C1$\emptyset$ and D1$\emptyset$ to channels C11 and D11, which presently have 2 MHz bandwidths. The 6 MHz bandwidths would enable channels C11 and D11 to be used to relay television signals.

4. Authority for these proposed amendments, as set forth in the appendix, is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments concerning the proposed rules contained in the attached appendix on or before July 2, 1976 and rely comments on or before July 12, 1976. All relevant and timely comments and reply comments will be considered by the Commission before any final action is taken. Comments should clearly specify the particular matter being addressed. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

6. In accordance with the provisions of Section 1.419 of the Rules, an original and elevent (11) copies of all comments, replies, pleadings, briefs or other documents shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its headquarters in Washington, D.C. (Room 239, 1919 M Street, N.W.).

Adopted: May 19, 1976.

Released: May 25, 1976.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

It is proposed to amend Part 78 of Chapter I of Title 47 of the code of Federal Regulations as follows:

1. In § 78.18 paragraph (a)(2), the channel boundaries of channels C1$\emptyset$, C11 D1$\emptyset$ and D11 are amended and a new paragraph (l) is added to read as follows:

§ 78.18 Frequency Assignments.

(a) * * *

(2) Cable television relay stations using vestigial sideband AM transmission:

*	*	*	*	*	
C1$\emptyset$ [1]					12.7525–12.7545
C11 [1]					12.7545–12.7605
*	*	*	*	*	
D1$\emptyset$ [1]					12.8117–12.8137
D11 [1]					12.8137–12.8197
*	*	*	*	*	

(l) Applicants for Group K channels shall apply for adjacent channels and the requested channels shall overlap the least possible number of Group A channels, except that different channel arrangements may be authorized upon an adequate showing that the foregoing arrangement cannot be used or would be contrary to the public interest, or in order to avoid potential interference or to permit a more efficient use.

[FR Doc.76-15834 Filed 5-28-76;8:45 am]

[47 CFR Parts 89, 91 and 93]

[FCC 76-465; Docket No. 20815]

BASE/MOBILE FREQUENCIES

Inquiry and Notice of Proposed Rule Making

Adopted: May 19, 1976.

Released: May 25, 1976.

In the Matter of amendment of Parts 89, 91, and 93 of the Commission's Rules to expand the secondary fixed use of base/mobile frequencies in the 450–470 MHz band.

By the Commission: 1. Notice is hereby given of proposed rule making in the above entitled matter.

2. Present rules for secondary use of base/mobile frequencies for fixed point-to-point operations in the 450–470 MHz band were adopted in Docket 13847. In the First Notice of Proposed Rule Making in that proceeding (10 FCC 2d 885), the Commission proposed to prohibit all fixed uses in this band, except for certain control station operations. The comments received in response to the proceeding, however, opposed this proposal. As a result, the Commission and the Advisory Committee for the Land Mobile Radio Services (ACLMRS) established a special task force in order to further study the problem. This group's recommendations, with certain modifications, were adopted in the Commission's Second Report and Order in that proceeding (11 FCC 2d 648).[1] It was the task force's findings that judicious use of the 450–470 MHz frequencies for fixed, point-to-point operations should be permitted since it would improve overall spectrum utilization. The Committee noted, however, that the 450–470 MHz

[1] The task force's findings are outlined in the Report of the Advisory Committee for the Land Mobile Radio Services, Volume II, Part 2, Section 15.

frequencies were rapidly becoming congested in and around large metropolitan areas. Consequently, the Committee recommended the Commission adopt steps to insure maximum channel availability in the future for the primary use of these frequencies (base/mobile operations) in the vicinity of the nation's most populated geographic areas. Furthermore, the task force concluded any such plan to insure the channel availability for base/mobile operations should be both easy to administer and flexible enough to incorporate changing conditions. Since the greatest frequency congestion was found usually to coincide with the more populated metropolitan areas, the task force recommended that secondary fixed point-to-point operations be precluded within or near urbanized areas of 200,000 or more population.[2] It was the Committee's conclusion, at that time, that urbanized areas of this size had reached a level where frequency congestion existed and the congestion probably would continue to increase due to the increasing tendency for people to locate in urbanized areas.[3] Also, they felt that facilities on other than the 450–470 MHz radio channels were generally available in cities of this size to satisfy any existing or future point-to-point requirements. The Commission, in general, agreed with these conclusions, and, consequently, adopted this Urbanized Area Concept with some slight modifications.

3. In the past few months, we have had several requests asking that the time provision, grandfathering fixed operations inside these protected areas, be extended.[4] None of the systems in question are located in or near the most heavily populated urbanized centers where frequency shortages are an immediate problem. However, these systems are located within 100 miles of the center of the smaller urbanized areas that are protected. In addition to these requests, there has been an increasing demand for telemetry operations on frequencies in the 450 MHz band, mostly for environmental monitoring purposes. This demand has resulted, for the most part, from the growing concern in our society over pollution control. Federal, as well as state agencies, are imposing rigid requirements in the area of environmental protection. Because of these requirements and the current interest to protect the environment, we believe the need for environmental monitoring systems will continue to accelerate. It is for these reasons, that the Commission is looking into the possibility of expanding secondary fixed use in the 450 MHz band.

4. In order to analyze the problem, the Commission sampled the loading on frequencies in the 450–470 MHz band in several of the 87 protected areas according to their rank in population. We attempted to assess the loading and usage of frequencies inside the 100 mile radius circles in terms of distance from the center of the protected area, in hopes that the area could possibly be reduced or, in some cases, even eliminated. We also looked at whether point-to-point systems would contribute to frequency congestion in these presently protected areas. It proved impossible, however, to quantify the actual degradation of mobile systems caused by fixed point-to-point operations. To do this would require a case-by-case study of all operations in the areas of interest taking into account interaction among other co-channel and adjacent channel operations. As for the loading study, frequency usage followed population concentration just as we expected. We discovered in our limited analysis that the usage of frequencies did not become so extensive as to approach congestion on all or nearly all available channels until the population in the urbanized area approached 600,000.[5] This population concentration exists in the nation's 40 largest urbanized areas. Again, in the more heavily populated urbanized areas (more than 600,000 population), we found a frequency congestion problem. However, in the lesser populated urbanized areas, although frequency allocations in certain of the radio services may have been heavily loaded, not all of the 276 frequency pairs available for base/mobile operations were congested or in some cases even used. This was especially true in regions outside the centers of the less populated protected areas where there was hardly any use of the UHF channels. The only exception to this observation occurred when the area in question overlapped another protected urbanized area or large Standard Metropolitan Statistical Area (SMSA). In these cases, frequency usage increased due to the additional population concentrated in the area of interest. Therefore, continuing our policy to maximize spectrum utilization, we are proposing to eliminate the less populated urbanized areas from the restricted list and only preclude point-to-point operations within 100 miles from the center of the top 40 urbanized areas.[6] This should make available large sparsely populated areas, which are relatively free of mobile usage, where applicants can meet their relatively limited point-to-point requirements more economically than using microwave and yet be free from the restrictions imposed on operations in the 72–76 MHz band. Since any fixed operations on these 450 MHz frequencies will still be on a secondary basis, we believe licensees wishing to satisfy point-to-point requirements in the centers of population of these previously protected areas, where UHF mobile systems are in operation and expected to grow, will use the frequencies in other bands which are primarily available for fixed operations.

5. Therefore, on the basis of our limited study and for the purposes of this proceeding, we are proposing to protect only the top 40 urbanized areas. However, in the end, we realize it may be necessary to look at each of the 87 cities individually to determine exactly where secondary use of the 450 MHz frequencies should be permitted. Therefore, in order to comprehensively evaluate the matter at this time, we request comments as to whether the 100 or 75 miles radius circles surrounding the top 40 urbanized areas could be reduced and if so, how much.

6. In regard to the grandfather provision in the 40 remaining protected areas, we are not proposing renewals beyond the November 1, 1976 date. The additional five years already granted should have provided an adequate period to amortize and replace equipment for compliance with requirements without economic hardship.

7. Notice is hereby given on our proposal to adopt Rules as set forth in Section 1.415 of the Commission's Rules, intersted persons may file comments on or before July 28, 1976 and reply comments on or before August 27, 1976. Relevant and timely comments will be considered by the Commission before final action in this proceeding. In reaching its final decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. In accordance with the provisions of Section 1.419 of the Commission's Rules an original and eleven copies of all statements and comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: May 19, 1976.

Released: May 25, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Parts 89, 91, and 93 of the Commission's Rules and Regulations are amended as follows:

1. Part 89 is amended as follows:
Section 89.101(p) is revised as follows:

[2] According to the 1960 census, there were 87 urbanized areas with a population of 200,000 or more.

[3] An Electronic Industries Association study revealed that over 50% of all licensed transmitters are concentrated in less than 8% of the land area of the Continental United States. Further, slightly more than 50% of the nation's population occupies only 2.18% of the nation's land area.

[4] In the Report and Order, existing licensees operating fixed systems in these protected areas had until November 1, 1971, before changing frequencies. However, a waiver of the cut-off-date was granted September 1, 1971. The new date was changed to November 1, 1976.

[5] There were some exceptions to this such as the oil fields in the Gulf of Mexico.

[6] Since areas of population have changed since 1960, we propose to use the 1970 census in determining the top 40 urbanized areas. As before, the center of these areas should be determined from the coordinates set forth in the U.S. Department of Commerce Publication "Airline Distance Between Cities in the United States".

§ 89.101 Frequencies.

* * * * *

(p) The following frequencies may be assigned to fixed stations in the Public Safety Radio Services on a secondary non-interference basis to land mobile operations in the Industrial (except Business) and Land Transportation Radio Services. All such use of these frequencies for fixed systems is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems the separation between transmit-receive frequencies is 5 MHz. The centers of urbanized areas of 600,000 or more population are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distance Between Cities in the United States." Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Vol. 1, Table 20, Page 1–74.

* * * * *

2. Part 91 is amended as follows:

Section 91.254(b)(26) is revised as follows:

§ 91.254 Frequencies available.

* * * * *

(b) * * *

(26) This frequency may be assigned to fixed stations on a secondary non-interference basis to land mobile stations on the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.304(b)(29) is revised as follows:

§ 91.304 Frequencies available.

* * * * *

(b) * * *

(29) This frequency may be assigned to fixed stations on a secondary non-interference basis to land mobile stations in the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHx. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.354(b)(29) is revised as follows:

§ 91.354 Frequencies available.

* * * * *

(b) * * *

(29) This frequency may be assigned to fix stations on a secondary non-interference basis to land mobile stations in the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.504(b)(26) is revised as follows:

§ 91.504 Frequencies available.

* * * * *

(b) * * *

(26) This frequency may be assigned to fix stations on a secondary non-interference basis to land mobile stations in the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas determined from the Appendix, Page 226 of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.554(b)(38) is revised as follows:

§ 91.554 Frequencies available.

* * * * *

(b) * * *

(38) This frequency may be assigned to fixed stations in the Business Radio Service. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.730(b)(14) is revised as follows:

§ 91.730 Frequencies available.

* * * * *

(b) * * *

(14) This frequency may be assigned to fixed stations on a secondary non-interference basis to land mobile stations in the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

Section 91.754(b)(10) is revised as follows:

§ 91.754 Frequencies available.

* * * * *

(b) * * *

(10) This frequency may be assigned to fixed stations on a secondary non-

interference basis to land mobile stations in the Public Safety and Land Transportation Radio Services. All use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226 of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

3. Part 93 of the Rules is revised as follows:

Section 93.101(b) is amended as follows:

§ 93.101 Frequencies.

* * * * *

(b) The following frequencies may be assigned to fixed stations in the Land Transportation Radio Service on a secondary non-interference basis to land mobile stations in the Public Safety and Industrial Radio Services. All such use of these frequencies by fixed stations is limited to locations 100 or more miles from the center of any urbanized area of 600,000 or more population, except that the distance may be 75 miles if the plate input power does not exceed 30 watts. All fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 dB. For two-frequency systems, separation between transmit-receive frequencies is 5 MHz. Urbanized areas of 600,000 or more population are defined in the U.S. Census of population, 1970, Vol. 1, Table 20, Page 1–74. The centers of urbanized areas are determined from the Appendix, Page 226, of the U.S. Commerce publication "Air Line Distances Between Cities in the United States."

* * * * *

[FR Doc.76–15835 Filed 5–28–76;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 704]

CALCULATION OF DEPRECIATION DEDUCTION FOR REFUNDS UNDER FULL WARRANTIES ON CONSUMER PRODUCTS

Notice of Proceeding on Proposed Rule With Public Hearings and Invitation To Comment on Proposed Rule

Section 101(12) of the Magnuson-Moss Warranty Act, Pub. L. 93–637 (15 USC 2301) hereinafter, "the Act", authorizes the Federal Trade Commission to prescribe rules permitting a warrantor of a consumer product with a "full warranty" to make a deduction for depreciation based on actual use when fulfilling its duty to refund the actual purchase price of a consumer product under section 104(a) of the Act.

The proposed rule is intended to permit a deduction for depreciation based on actual use where the consumer has enjoyed the use of the product prior to refund. The proposed rule would establish the method by which the deduction for depreciation based on actual use shall be calculated and would set forth requirements for disclosing the terms and conditions of refund in the written warranty. The warrantor's election to make a deduction for depreciation would be conditioned on the warrantor's compliance with the proposed rule.

Section 101(12) does not authorize the Commission to require that a warrantor make a deduction for depreciation based on actual use when refunding the actual purchase price. Only those warrantors who choose to make a deduction for depreciation must comply with the requirements prescribed in the proposed rule.

In consideration of the foregoing, the Commission proposes the following rule to implement section 101(12) of the Act and to amend Title 16, Chapter 1, Subchapter G, Rules, Regulations, Statements and Interpretations under Magnuson-Moss Warranty Act, by adding a new Part 704 to read as follows:

PART 704—CALCULATION OF DEPRECIATION DEDUCTION FOR REFUNDS UNDER FULL WARRANTIES ON CONSUMER PRODUCTS

Sec.
704.1 Definitions.
704.2 Scope.
704.3 Requirements.

AUTHORITY: 15 U.S.C. 2301(12) and 2309.

§ 704.1 Definitions.

(a) "The Act" means the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. 93–637 (15 U.S.C. 2301, et seq.).

(b) "Refund" means refunding the actual purchase price.

(c) "Actual purchase price" means the total amount paid for a consumer product by the first buyer at retail, including the value of any personal property exchanged in the purchase of the consumer product, installation charges, delivery charges, and federal, State and local taxes.

(d) "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(e) "Consumer" means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty applicable to the product, and any other person who is entitled by the terms of such warranty or under applicable State law to enforce against the warrantor the obligations of the warranty.

(f) "Amount of use" means the length of time or other appropriate measure of usage from the date on which the first buyer at retail or any donee(s) designated by the buyer to the seller takes delivery or the date on which the consumer product is installed, whichever is later, to the date of notification of a defect, malfunction or failure to conform with the written warranty except that where the defect, malfunction or failure to conform with the written warranty is remedied, the length of time or other appropriate measure of usage from the date of remedy to the next date of receipt of notification of a defect, malfunction or failure to conform with the written warranty shall be included in the amount of use if the product has performed as warranted during the interim.

(g) "Warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.

(h) "Supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers. This includes sellers, wholesalers, distributors, jobbers and any other parts of the product distribution system.

(i) "Seller" means any person who sells or offers for sale for purposes other than resale any consumer product.

(j) "Useful life" means the warrantor's estimate of the average service life expectancy of the warranted class or model of consumer product(s) expressed in number of years or other appropriate measure of life.

(k) "Average service life expectancy" means the arithmetic mean of the number of years or other appropriate measure of life that the class or model of consumer product(s) remains in personal, family or household service under all owners.

(l) "Full warranty" means a written warranty which meets or is deemed to meet the Federal minimum standards under section 2304 of the Act.

§ 704.2 Scope.

This part establishes conditions under which a warrantor who designates a written warranty applicable to a consumer product as a "full warranty" is permitted to make a deduction for reasonable depreciation based on actual use when fulfilling its duty to refund under the Act. The conditions include disclosure requirements for warrantors who make such deductions and calculation of such deductions in accordance with the method established by § 704.3. This part applies only to those warrantors who elect to make a deduction from the amount of refund. This part is intended to supplement the requirements for warrantors contained in Part 701 of this subchapter.

§ 704.3 Requirements.

In fulfilling any duty to remedy a consumer product under a "full warranty" a warrantor may not make any deduction from the actual purchase price

unless it complies with the requirements set forth in paragraphs (a) and (b) of this section.

(a) *Warranty disclosures.* In addition to the disclosures required under Part 701 of this subchapter, the following information shall be fully and conspicously disclosed in simple and readily understood language in the written warranty:

(1) The fact that a charge for the use of the product will be deducted from the purchase price; and

(2) An explanation of the method by which the amount of refund will be calculated.

(b) *Method for calculating amount of deduction.* (1) The amount of the deduction shall be based on the amount of use derived from the product expressed in units of time or other relevant measure of usage as a proportion of the useful life figure and shall be computed on the actual purchase price as follows:

$$\frac{\text{Amount of use}}{\text{Useful life figure}} \times \text{Actual purchase price} = \text{Deduction}$$

(2) For the purpose of calculating the amount of deduction, a warrantor shall adopt a figure(s) which is no less than the useful life of its product(s). The figure adopted must be substantiated by a reasonable basis which shall consist of competent and reliable scientific test(s), competent and reliable consumer or market survey(s), or other competent and reliable objective materials, including opinions of scientific, engineering or other experts who are qualified by professional training and experience to render competent judgments in such matters. In determining whether the figure for useful life is substantiated by a reasonable basis, there shall be taken into account the nature and extent of the substantiation that is possible given the state of the art, as well as the nature and extent of the substantiation actually relied upon. Accurate records which consist of the documentation constituting the reasonable basis and which demonstrate reliance on such reasonable basis in adopting the useful life figure must be maintained by the warrantor for a period of three (3) years from the date on which such figure is last disclosed in the written warranty and must be made available for inspection by the Commission's staff upon reasonable notice. If a portion of the substantiation is in the form of expert opinion, such opinion should be reduced to writing which should include a statement of the conclusion or opinion relied upon along with a full description of the basis of the opinion and the statement of when such conclusion or opinion was first rendered and the name, title, and current location of the person to whom the opinion was directly rendered. The writing should be signed by the person whose opinion is relied upon and such person should be identified by title and current location and the qualifications of the individual giving the opinion should be described.

EXAMPLE: The following is an example of the method of calculating the amount of deduction permitted by this part:

A consumer purchases a refrigerator with a full 2-year warranty for $303.30 including State tax and delivery charge. The refrigerator is delivered on January 2 and proves to be defective. Notification of the defect is received by the warrantor on July 2. Repair is not commercially practicable. The consumer elects a refund. The useful life figure on which the refund is calculated is 15 years.

$$\frac{\text{6 mos. (amount of use)}}{\text{15 yrs. (useful life figure)}} \times \text{\$303.30 (actual purchase price)} = \text{\$10.10 (deduction)}$$

Amount of refund is $293.20.

The documents supporting the proposed rule, and a report of the Commission's staff discussing the proposed rule and the supporting documents, are available for examination by interested persons in Room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C.

All interested persons are hereby notified that they may file written data, views or arguments concerning the proposed rule with the Special Assistant Director for Rulemaking, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, not later than August 2, 1976.

All interested persons are also given notice of the opportunity to orally present data, views or arguments with respect to the proposed rule at a public hearing to be held commencing at 9 a.m., e.d.t., August 9, 1976 in Room 332 of the Federal Trade Commission Building, Sixth and Pennsylvania Avenue, Northwest, Washington, D.C.

Any person desiring to orally present his or her views at the hearing should so inform the Special Assistant Director for Rulemaking not later than August 2, 1976, and state the estimated time required for his or her oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all persons desiring to deliver a prepared statement at the hearing should file such statement together with supporting factual material with the Special Assistant Director for Rulemaking not later than August 2, 1976. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit five copies, except that supporting materials need not be duplicated.

The data, views or arguments presented with respect to the proposed rule will be available for examination by interested persons in Room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered by the Commission in its determination to issue a final version of the proposed rule. All interested persons are urged to express their approval or disapproval of the proposed rule, or to recommend revisions thereof, and to give a full statement of their views in connection therewith.

Comments are invited with respect to all aspects of the proposed rule. The Commission invites comments particularly with respect to the following:

1. The proposed rule applies only to "full warranties". Should the principle of the rule, i.e., permitting a deduction for reasonable depreciation based on actual use from the actual purchase price, be applied to other warranty situations?

2. Should the proposed rule be revised to include a provision for a full refund of the actual purchase price if the product contains a defect or malfunction or fails to conform with the written warranty at or shortly after delivery?

3. "Amount of use", as defined in § 704.1(f), is measured from the date of delivery or date of installation, whichever is later. Should the consumer be allowed to present evidence to show that actual use of the consumer product began at a time later than that prescribed in the proposed rule? In what situations?

4. The definition of "actual purchase price" set forth in § 704.1(c) represents an expansive interpretation of that term. Should this definition be revised? In what manner and for what reasons? With respect to the inclusion of installation costs, are there circumstances in which the refunding of such costs would be inequitable? If so, should the cost of installation be allocated between the warrantor and the consumer? By what method? Would it be equitable to require a consumer to assume the cost incurred in the installation of a product which contains a defect(s) or malfunction(s) which cannot be remedied? In what circumstances and for what reasons? Where the warranted consumer product is installed by a party other than the warrantor or its agent, should the warrantor be allowed to require, as a condition of inclusion in the amount of refund, that such installation costs be reasonable and substantiated by some evidence of payment?

5. As presently proposed, § 704.3(b)(2) would require a warrantor to adopt a figure which is no less than the useful life of its product as that term is defined in § 704.1(j). Is the requirement that "useful life" represent the average service life expectancy of the product feasible in terms of the availability of data necessary to make such calculation and the cost of compliance? Are there alternative methods of defining and measuring "reasonable depreciation based on actual use"?

6. "Average service life expectancy", as defined in § 704.1(k), will represent the arithmetic mean value. Would the median be the more appropriate measure of central value? In what circumstances and for what reasons?

7. Section 704.3(b)(2) would require that the useful life figure which is adopted by the warrantor be substantiated by a reasonable basis. That section defines the type and quality of evidence which would constitute a reasonable basis for an estimate of the useful life of a consumer product. Are there other forms of evidence, presently existing or being developed, which would pro-

vide a reasonable basis for the useful life figure?

Issued: June 1, 1976.

By the direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-15623 Filed 5-28-76;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

[20 CFR Part 901]

ENROLLMENT OF ACTUARIES

Proposed Procedures and Requirements

Correction

In FR Doc. 76-14445, appearing at page 20424, in the FEDERAL REGISTER of Tuesday, May 18, 1976, the following changes are made:

1. On page 20425, column one, in § 901.13(a), the 5th and 6th lines should read: "tion, the basic actuarial knowledge requirement of paragraph (c) of".

2. On page 20425, column one, in § 901.13(c)(3), the 4th word in line 4 should read: "completion".

3. In § 901.13(c)(3)(ii) the 6th line should read as follows: "agraph (c)(3)(i) of this section."

4. In §901.13(d)(1), 2nd column, second line, the first word should read "actuarial".

5. In § 901.13(d)(2) the 12th line should read as follows: "graph (d)(1) of this section".

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 275]

[Release No. IA-516, File No. S7-632]

INVESTMENT ADVISERS

Proposed Rules Concerning General Requirements for Papers and Applications, and Procedure With Respect Thereto

Notice is hereby given That the Securities and Exchange Commission has under consideration the adoption of new Rules 0-4, 0-5, and 0-6 [17 CFR § 275.0-4, 17 CFR 275.0-5, and 17 CFR 275.0-6, respectively] under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.] (the "Advisers Act") for the purpose of facilitating the processing of applications for orders under the provisions of the Advisers Act and the rules promulgated thereunder.[1] The Commission is also considering a related clarifying amendment of the title of Rule 204-1 [17 CFR § 275.204-1] under the Advisers Act. The foregoing actions would be taken by the Commission pursuant to Sections 203 [15 U.S.C. 80b-3], 204 [15 U.S.C. 80b-4], and 211 [15 U.S.C. 80b-11] of the Advisers Act and Title V of the Independent Offices Appropriations Act, 1952 [31 U.S.C. 483a].

At present, there are no rules under the Advisers Act relating to the filing and processing of applications for orders under the provisions of the Advisers Act and the rules promulgated thereunder. As a result, the papers and applications that are filed for such orders may not provide sufficient information for the Commission to render an appropriate decision, and, even where they do provide all necessary information, they may not present the kind of formal record normally required as the basis for Commission action. The rules under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] (the "Investment Company Act") now provide formal requirements for the filing and processing of papers and applications for orders under the provisions of the Investment Company Act and the rules thereunder; the Commission now proposes to adopt similar provisions under the Advisers Act with certain changes to make them consistent with the present rules under the Advisers Act.

Proposed Rule 0-4 under the Advisers Act would contain general requirements of papers and applications filed pursuant to the Advisers Act and any rule or regulation thereunder, including, among other things, the method for filing such papers and formal specifications respecting the form in which applications should be filed and their contents, including a statement as to the authority of the persons signing the application, a statement of the grounds for the application, and the address of the applicant.

Proposed Rule 0-5 under the Advisers Act would specify the procedure of the Commission with regard to proceedings initiated by the filing of an application, or upon the Commission's own motion, pursuant to any section of the Advisers Act or any rule or regulation thereunder, unless in the particular circumstances a different procedure is provided. It encompasses a requirement for notice of the initiation of the proceedings in the FEDERAL REGISTER, a period of time during which interested persons might request a hearing, a provision for the issuance of orders, including orders for hearings, and a requirement of a $150 application fee. The $150 fee would not be required where an applicant for an order under the Advisers Act also applies for an order under the Investment Company Act in the same application, since a $500 application fee would then be required pursuant to Rule 0-5(d) [17 CFR § 270.0-5(d)] under the Investment Company Act.

Proposed Rule 0-6 under the Advisers Act would provide for incorporation by reference in applications filed under the Advisers Act of all or a part of other documents, including financial statements, filed with the Commission pursuant to any Act administered by the brevity of other reports currently re- Commission. In view of the relative quired to be filed with the Commission under the Advisers Act, incorporation by reference in such documents would appear to be unnecessary at this time.

The term "application," as used in proposed Rules 0-4, 0-5, and 0-6, would be defined as "any application for an order of the Commission under the Act amendments to applications for registion as an investmen; adviser."

The Commission also proposes to amend the title to Rule 204-1 to make it clear that that rule relates only to amendments to applications for registration and not to amendments to other kinds of applications.

PROPOSED COMMISSION ACTION

As proposed to be adopted, Rules 0-4, 0-5, and 0-6 under the Advisers Act (17 CFR 275.0-4, 275.0-5, 275.0-6) would read as follows:

§ 275.0-4 General requirements of papers and applications.

(a) *Filing of papers.* All papers required to be filed with the Commission shall, unless otherwise provided by the rules and regulations in this part, be delivered through the mails or otherwise to the Securities and Exchange Commission, Washington, D.C. 20549. Except as otherwise provided by the rules and regulations in this part, such papers shall be deemed to have been filed with the Securities and Exchange

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[1] Clause (F) of Section 202(a)(11) [15 U.S.C. 80b-2(a)(11)(F)] of the Advisers Act excludes from the definition of "investment adviser" such persons not within the intent of the definitional paragraph "as the Commission may designate by rules and regulations or order."

Section 206A [15 U.S.C. 80b-6(A)] of the Act provides as follows:

"The Commission, by rules and regulations, upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person or transaction, or any class or classes of persons, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title."

Section 210(a) [15 U.S.C. 80b-10(a)] of the Act provides in part as follows:

"The information contained in any registration application or report or amendment thereto filed with the Commission pursuant to any provision of this title shall be made available to the public, unless and except insofar as the Commission, by rules and regulations upon its own motion, or by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest or for the protection of investors."

Section 211 [15 U.S.C. 80b-11] of the Act provides in part as follows:

"(a) The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon the Commission elsewhere in this title * * *."

* * * * *

"(c) Orders of the Commission under this title shall be issued only after appropriate notice and opportunity for hearing. Notice to the parties to a proceeding before the Commission shall be given by personal service upon each party or by registered mail or certified mail or confirmed telegraphic notice to the party's last known business address. Notice to interested persons, if any, other than parties may be given in the same manner or by publication in the FEDERAL REGISTER.

Commission on the date when they are actually received by it.

(b) *Formal specifications respecting applications.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed, and every amendment to such application shall be filed in quintuplicate. One copy shall be signed by the applicant, but the other four copies may have facsimile or typed signatures. Such applications shall be on paper approximately 8½ by 13 inches in size, except that tables, charts, and other documents may be larger if folded to approximately that size. The left margin should be at least 1½ inches wide, and, if the application is bound, it should be bound on the left side. All typewritten or printed matter (including deficits in financial statements) should be set forth in black so as to permit photocopying.

(c) *Authorization respecting applications.* (1) Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed and which is executed by a corporation, partnership, or other company and filed with the Commission, shall contain a concise statement of the applicable provisions of the articles of incorporation, bylaws, or similar documents, relating to the right of the person signing and filing such application to take such action on behalf of the applicant, and a statement that all such requirements have been complied with and that the person signing and filing the same is fully authorized to do so. If such authorization is dependent on resolutions of stockholders, directors, or other bodies, such resolutions shall be attached as an exhibit to, or the pertinent provisions thereof shall be quoted in, the application.

(2) If an amendment to any such application shall be filed, such amendment shall contain a similar statement or, in lieu thereof, shall state that the authorization described in the original application is applicable to the individual who signs such amendment and that such authorization still remains in effect.

(3) When any such application or amendment is signed by an agent or attorney, the power of attorney evidencing his authority to sign shall contain similar statements and shall be filed with the Commission.

(d) *Verification of applications and statements of fact.* Every application for an order under any provision of the Act, for which a form with instructions is not specifically prescribed and every amendment to such application, and every statement of fact formally filed in support of, or in opposition to, any application or declaration shall be verified by the person executing the same. An instrument executed on behalf of a corporation shall be verified in substantially the following form, but suitable changes may be made in such form for other kinds of companies and for individuals:

STATE OF_____
COUNTY OF_____, ss:

The undersigned being duly sworn deposes and says that he has duly executed the attached_____dated_____, 19__, for and on behalf of_____;
(Name of company)
that he is the_____
(Title of officer)
of such company; and that all action by stockholders, directors, and other bodies necessary to authorize deponent to execute and file such instrument has been taken. Deponent further says that he is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

_____
(Signature)

_____
(Type or print name beneath)

Subscribed and sworn to before me a _____ this _____
(Title of Officer)
day of _____, 19__.

[Official Seal]_____
My commission expires_____

(e) *Statement of grounds for application.* Each application should contain a brief statement of the reasons why the applicant is deemed to be entitled to the action requested with a reference to the provisions of the Act and of the rules and regulations under which application is made.

(f) *Name and address.* Every application shall contain the name and address of each applicant and the name and address of any person to whom any applicant wishes any question regarding the application to be directed.

(g) *Proposed Notice.* A proposed notice of the proceeding initiated by the filing of the application shall accompany each application as an exhibit thereto and, if necessary, shall be modified to reflect any amendments to such application.

(h) *Definition of Application.* For purposes of this rule, an "application" means any application for an order of the Commission under the Act other than an application for registration as an investment adviser.

§ 275.0–5 Procedure with respect to applications and other matters.

The procedure hereinbelow set forth will be followed with respect to any proceeding initiated by the filing of an application, or upon the Commission's own motion, pursuant to any section of the Act or any rule or regulation thereunder, unless in the particular case a different procedure is provided:

(a) Notice of the initiation of the proceeding will be published in the FEDERAL REGISTER and will indicate the earliest date upon which an order disposing of the matter may be entered. The notice will also provide that any interested person may, within the period of time specified therein, submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, stating his reasons therefor and the nature of his interest in the matter.

(b) An order disposing of the matter will be issued as of course following the expiration of the period of time referred to in paragraph (a), unless the Commission thereafter orders a hearing on the matter.

(c) The Commission will order a hearing on the matter, if it appears that a hearing is necessary or appropriate in the public interest or for the protection of investors, (1) upon the request of any interested person or (2) upon its own motion.

(d) At the time of filing an application under the Act, the applicant or applicants shall pay to the Commission, in the manner specified in paragraph (b) of Rule 203–3 [17 CFR § 275.203–3(b)] under the Act, a total fee of $150, no part of which shall be refunded. This fee shall not be required where a single application is filed under both the Act and the Investment Company Act of 1940.

(e) Definition of Application. For purposes of this rule, an "application" means any application for an order of the Commission under the Act other than an application for registration as an investment adviser.

§ 275.0–6 Incorporation by reference in applications.

(a) A person filing an application may, subject to the limitations of § 201.24 of this chapter, incorporate by reference as an exhibit to such application any document or part thereof, including any financial statement or part thereof, previously or concurrently filed with the Commission pursuant to any act administered by the Commission. The incorporation may be made whether the matter incorporated was filed by such applicant or any other person. If any modification has occurred in the text of any such document since the filing thereof, the applicant shall file with the reference a statement containing the text of any such modification and the date thereof. If the number of copies of any document previously or concurrently filed with the Commission is less than the number required to be filed with the application which incorporates such document, the applicant shall file therewith as many additional copies of the document as may be necessary to meet the requirements of the application.

(b) Notwithstanding paragraph (a) of this rule, a certificate of an independent public accountant or accountants previously or concurrently filed may not be incorporated by reference in any application unless the written consent of the accountant or accountants to such incorporation is filed with the application.

(c) In each case of incorporation by reference, the matter incorporated shall be clearly identified in the reference. An express statement shall be made to the effect that the specified matter is incorporated in the application at the particular place where the inforamtion is required.

(d) Notwithstanding paragraph (a) of this rule, no application shall incorporate by reference any exhibit or financial statement which (1) has been withdrawn, or (2) was filed under any act administered by the Commission in connection with a registration which has

ceased to be effective, or (3) is contained in an application for registration, registration statement, or report subject, at the time of the incorporation by reference, to pending proceedings under Section 8(b) [15 U.S.C. 77a–8(b)] or 8(d) [15 U.S.C. 77a–8(d)] of the Securities Act of 1933 [15 U.S.C. 77a–1 et seq.], Section 8(e) [15 U.S.C. 8a–(e)] of the Investment Company Act of 1940, Section 15(b)(4)(A) [15 U.S.C. 7a–15(b)(4)(A)] of the Securities Exchange Act of 1934 [15 U.S.C. 78a–1 et seq.], Section 23(e)(1) [15 U.S.C. 80b–3(e)(1)] of the Investment Advisers Act of 1940 or to an order entered under any of those Sections.

(e) Notwithstanding paragraph (a) of this rule, the Commission may refuse to permit incorporation by reference in any case in which in its judgment such incorporation would render an application incomplete, unclear, or confusing.

(f) Definition of Application. For purposes of this rule, an "application" means any application for an order of the Commission under the Act other than an application for registration as an investment adviser.

§ 275.204–1 [Amended]

§ 275.204–1 under the Investment Advisers Act of 1940 is presently entitled, "Amendments to application." In order to make it clear that that rule relates only to amendments to applications for registration, the Commission proposes to amend its title to read, "Amendments to applications for registration."

All interested persons are invited to submit their views on the foregoing proposals, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, to be received on or before July 15, 1976. All such communications will be available for public inspection and should refer to file No. S7–632.

By the Commission.

Dated: MAY 13, 1976.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–15815 Filed 5–28–76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

BUSINESS LOAN POLICY

Charges and Interest Rates

The Small Business Administration (SBA) proposes to amend its Business Loan Policy Regulations to permit fluctuations in the interest rate to occur as frequently as quarterly on those immediate participation and guaranty loans to small business utilizing a fluctuating rate of interest. Heretofore, such fluctuations have been allowed to be effective no oftener then semi-annually.

This proposed amendment will allow lenders participating with SBA to establish in their leading instruments (with the concurrence of the small business borrowers) authority for adjusting interest rates on their fluctuating-interest rate loans quarterly, semiannually, or upon the expiration of any interval that has a duration of three months or more. The result will be that this type of SBA participation loan may be administered by private lenders more generally in keeping with the methods they employ in non-SBA commercial lending.

Comments with respect to this proposed amendment may be sent to the Associate Administrator for Finance and Investment, SBA, 1441 L Street, N.W., Washington, D.C. 20416. All material received on or before June 16, 1976 will be considered.

Pursuant to the authority of Section 5 of the Small Business Act, 72 Stat. 385, 15 U.S.C. 634, and Section 7 of such Act, as amended, 72 Stat. 387, 15 U.S.C. 636, it is proposed to amend Part 120 by revising subdivisions (ii) and (iii) of subparagraph 120.3(b)(2) thereof to read as follows:

§ 120.3 Terms and conditions of business loans and guarantees.

* * * * *

(b) *Charges and interest rates.* * * *

(2) * * *

(ii) Subject to the approval of SBA, a participating financial institution may establish such rate of interest on its share of an immediate participation loan as shall be legal and reasonable. A lending institution may be given the option of utilizing a fluctuating rate of interest on its share of an immediate participation loan. The fluctuations may occur no more often than quarterly, and must rise or fall on the same basis.

(iii) Subject to the approval of SBA, the interest rate on guaranteed loans may be established by the participating financial institution at a rate that shall be legal and reasonable. Subject to the above guidelines, lending institutions may be given the option of utilizing a fluctuating rate of interest. The fluctuations may occur no more often than quarterly, and must rise or fall on the same basis.

(Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans)

Dated: May 24, 1976.

MITCHEL P. KOBELINSKI,
Administrator.

[FR Doc.76–15714 Filed 5–28–76;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS' BENEFITS

Federal Employees' Compensation—Concurrent Benefits

The Administrator of Veterans' Affairs proposes regulatory changes to clarify provisions relating to concurrent eligibility to benefits under the Federal Employees' Compensation Act (Chapter 81, Title 5, U.S.C.) and benefits payable under laws administered by the Veterans' Administration.

Prior to January 1, 1957, benefits under the Federal Employees' Compensation Act were payable for disability or death of a reservist incurred in service during peacetime. Pub. L. 881, 84th Congress (70 Stat. 857), effective January 1, 1957, repealed the provisions for paying benefits under the Federal Employees' Compensation Act for disability or death of reservists. Currently, cases are occasionally encountered where the Veterans' Administration determines the disability or death was due to military service and the Office of Workers' Compensation Programs, which administers the Federal Employees' Compensation Act, determines that the same disability or death was due to the veteran's civilian Federal employment. When this occurs and benefits are payable by both agencies, the claimant must elect which benefit he or she wishes to receive since benefits may not be paid by both agencies concurrently, based on the same disability or death. There is no prohibition against a claimant receiving concurrent benefits from both agencies when the two benefits are not based on the same disability or death.

Regulatory provisions relating to concurrent entitlement to benefits under the Federal Employees' Compensation Act and benefits aunder laws administered by the Veterans' Administration are contained in § 3.708 of Title 38, Code of Federal Regulations. These provisions require an election of benefits when the dual entitlement is based on the same disability or death. It is proposed to incorporate in § 3.708 a specific provision stating the prohibition against payment of concurrent benefits does not apply when the dual entitlement is not based on the same disability or death. This amendment to the regulations is made for clarification only and does not effect any change in benefits or change in current policy or procedure. Minor editorial changes are included in this section to reflect a reorganization and change of name of the agency administering the Federal Employees' Compensation Act. Editorial changes are made in § 3.711 to delete references to Indian War veterans since the last known Indian War veteran died June 18, 1973.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before July 1, 1976 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that the proposed changes will be effective the date of final approval.

1. In § 3.707, paragraph (b) is revised as set forth below:

§ 3.707 Dependents' education assistance.

* * * * *

(b) *Spouse or surviving spouse.* There is no bar to the payment of pension, compensation or dependency and indemnity compensaton to a spouse or surviving spouse concurrently with educational assistance allowance under 38 U.S.C. ch. 35.

2. In § 3.708, paragraphs (a) (1), (2) and (3) and (b) are revised as set forth below:

§ 3.708 Office of Federal Employees' Compensation.

(a) *Military service*—(1) *Initial election.* Where a person is entitled to compensation from the Office of Workers' Compensation Programs, under the Federal Employees' Compensation Act (FECA) based upon disability or death due to service in the Armed Forces and is also entitled based upon service in the Armed Forces to pension, compensation or dependency and indemnity compensation under the laws administered by the Veterans' Administration, the claimant will elect which benefit he or she will receive. Pension, compensation, or dependency and indemnity compensation may not be paid in such instaces by the Veteras' Administration concurrently with compensation from the Office of Workers' Compensation Programs. Benefits are not payable by the Office of Workers' Compensation Programs for disability or death incurred on or after January 1, 1957, based on military service.

(2) *Right of reelection.* Persons receiving compensation from the Office of Workers' Compensation Programs based on death due to military service may elect to receive dependency and indemnity compensation at any time. Once payment of dependency and indemnity compensation has been grated, all further right to FECA benefits is extinguished and only dependency and indemnity compensation is payable thereafter.

(3) *Rights of children.* Where primary title is vested in the widow of widower, the claimant's election controls the rights of any of the veteran's children, regardless of whether they are in the claimant's custody and regardless of the fact that such children may not be eligible to receive benefits under laws administered by the Office of Workers' compensation Programs. A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's or widower's entitlement may receive such benefits concurrently with payment of FECA benefits to the widow or widower.

* * * * *

(b) *Civilian employment*—(1) *Same disability or death.* Where a person is entitled to compensation from the Office of Workers' Compensation Programs based upon civilian employment and is also entitled to compensation or dependency and indemnity compensation under laws administered by the Veterans' Administration for the same disability or death, the claimant will elect which benefit he or she will receive. On or after September 13, 1960, an award cannot be approved for payment of compensation or dependency and indemnity compensation concurrently with compensation from the Office of Workers' Compensation Programs in such instances and an election to receive benefits from either agency is final. See § 3.958. There is no right of reelection. (5 U.S.C. 8116(b)) A child who is eligible for dependency and indemnity compensation or other benefits independent of the widow's or widower's entitlement may receive such benefits concurrently with payment of FECA benefits to the widow or widower.

(2) *Not the same disability or death.* There is no prohibition against payment of benefits under the Federal Employees' Compensation Act concurrently with other benefits administered by the Veterans' Administration when such benefits are not based on the same disability or death.

3. In § 3.711, paragraph (b) is revised as set forth below:

§ 3.711 Public Law 86–211.

* * * * *

(b) *Service prior to World War I*—(1) *General.* Veterans of the Spanish-American War who meet the service requirements of 38 U.S.C. 512(a) may elect to receive pension under 38 U.S.C. 521. Any widow or widower eligible for pension under 38 U.S.C. 536 may elect to receive pension under 38 U.S.C. 541. An election of pension under 38 U.S.C. 521 or 541 is final, except as provided in paragraph (b)(2) of this section, when the payee (or his or her fiduciary) has negotiated one check for this benefit. There is no right of reelection.

(2) *Aid and attendance.* Any veteran who meets the service requirements of paragraph (b)(1) of this section and who is receiving or entitled to receive pension based on need of regular aid and attendance will be paid whichever is greater: the monthly rate authorized by 38 U.S.C. 512(a), or the monthly rate authorized by 38 U.S.C. 521. A widow or widower of a veteran of the Spanish-American War who is receiving or entitled to receive pension based on a need of regular aid and attendance will be paid whichever is the greater: the monthly rate authorized by 38 U.S.C. 536 (a) and (b) and 544, or the monthly rate authorized by 38 U.S.C. 541 and 544. Elections are not required for these purposes. The change in rate will be effectice of the first day of the month in which the facts warrant such change.

(38 U.S.C. 512, 536, 541, 544)

Approved: May 25, 1976.

By direction of the Administrator:

ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.76-15843 Filed 5-28-76;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 157 and 250]

[Docket No. RM76-15]

REGULATION OF SMALL PRODUCERS

Notice of Proposed Rulemaking

MAY 25, 1976.

Notice is hereby given, pursuant to the Administrative Procedure Act, 5 U.S.C. 553, et seq., and the Natural Gas Act, Sections 4, 5, 7, 8, 10, 14, 15, and 16 (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o), that the Federal Power Commission (Commission) proposes to amend §§ 157.40,[1] 250.10 and 250.11 of its regulations to clarify and modify the rules and regulations pertaining to small producers.

We propose to modify and clarify the existing regulations to take care of certain problems which have arisen in the administration of the small producer program since the issuance of Order No. 428. These changes will operate prospectively only, and any cases now pending will be decided on the merits under the regulations as they now exist. One of the principal areas of concern involves the situation where a small producer acquires reserves developed in place from a large producer. The application filed by Suburban Propane Gas Corporation[2] in Docket No. CS75-396 brought this question into particular focus for the Commission.

Suburban, which had been a large producer, applied for certification as a small producer. In granting its application because the company's annual jurisdictional sales had fallen below the 10,000,000 Mcf limit, the Commission conditioned the exemption such that reserves developed by Suburban as a large producer would not qualify for small producer treatment. Suburban objected to this condition as contrary to the meaning of § 157.40(c), which applies, according to the company, only to reserves that are "purchased" from a large producer, which was not the case with Suburban. The *Suburban* case will be decided on the merits based on the current language in § 157.40(c).

In addition to the *Suburban*-type situation, there are other possible circumstances outside the purview of § 157.40(c) when a small producer might hold reserves developed in place by a large producer, yet not acquire them by "purchase." Examples include (a) a large producer which sells some or all of its

[1] The amendments proposed herein would have to be altered to accommodate any changes that would result should the Commission adopt the amendments to § 157.40 proposed by the Notice of Proposed Rulemaking issued on August 28, 1975, in Docket No. RM76-5. Since the issues raised in that proceeding are independent of the modifications proposed herein, both rulemaking proceedings can continue separately.

[2] Suburban Propane Gas Corporation, Docket No. CS75-396, —— FPC —— (November 19, 1975), rehearing granted, —— FPC —— (January 15, 1976).

interests in order to fall within the ten million Mcf annual jurisdictional sales limitation, (b) a small producer lessor to which reserves developed by a large producer lessee revert upon expiration of the lease, and (c) a producer who becomes a small producer upon severance of affiliation with a large producer.

It is believed that the definition of a "small producer" must be clarified and modified so that everyone may know just who may be classified as such and for how long. From this, definitions of "small producer reserves" and "small producer sales" can have clearer meaning. Adoption of the proposed revised § 157.40(a)(1) should accomplish this purpose, for it will gear a producer's status as a large or small producer to the total jurisdictional volumes of gas sold by that producer and its affiliates during the immediately preceding calendar year, regardless of the producer's certificate status. That is to say, even if a producer continues to hold a small producer certificate to cover valid "small producer sales," that producer would be considered to be a large producer commencing with January 1 of the year following that in which its jurisdictional sales exceeded 10,000,000 Mcf,[3] and any sales from reserves thereafter developed would not be "small producer sales." The reverse would also be true, however, so that a former large producer would assume small producer status commencing January 1 of the year following that in which its sales drop below the 10,000,000 Mcf limit. While in the latter case the producer would not be entitled to make any "small producer sales" prior to its filing of an application for a small producer certificate, it nevertheless would be assured that sales from any reserves developed while it was in a small producer status could be made under its small producer certificate upon application.

Where a small producer merges with, acquires, is acquired by, or otherwise becomes affiliated with another producer and the total jurisdictional sales volumes of such parties exceeds 10,000,000 Mcf in the immediately preceding calendar year, the small producer's status as such should terminate effective as of the date of such merger, acquisition, etc. The reason for this is basically that the producer would no longer have the characteristic of "smallness." If the producer were allowed to retain small producer status even while operating as a subsidiary of a large producer it would provide a means, at least during an interim period, by which the large producer could funnel its exploration and development funds through such subsidiary to develop "small producer reserves" from which "small producer sales" could be made.

[3] A small producer certificate will be considered to have terminated as of December 31 of the year in which its jurisdictional sales first exceeded the 10,000,000 Mcf limit, or as of the effective date of affiliation (by merger, acquisition, etc.) with a large producer or a jurisdictional pipeline company where the latter situation is involved.

The next question is whether limited-term and emergency sales volumes count as part of a producer's total annual jurisdictional sales in determining a producer's status as a large or small producer. The present regulations are not specific on this point, but in the only two such cases decided thus far, the Commission's action indicated that limited-term volumes, at least, should be included.[4] The regulations here proposed would specifically include emergency sales and limited-term sales volumes as part of a producer's total annual jurisdictional sales.

With respect to emergency sales, we are not aware of any past case where the question of including the volumes as part of total sales has been raised. However, in at least one pending application this issue is present.[5] It is believed proper to include emergency sales volumes since in many cases such sales may extend well beyond the normal 60-day emergency period, pursuant to Commission Opinion No. 699–B, and are followed immediately by certificate authorization for sales from the same properties. Moreover, although parties making emergency sales are exempted from certain filing requirements, the sales are nevertheless jurisdictional.

Clarification is needed as to whether affiliations formed by participation in limited partnership would bring all limited partners under the definition of "affiliated producers" as set forth in § 157.40(a)(2). Since the basic criterion for affiliation as used there is whether a party, either directly or indirectly, controls, is controlled by, or is under common control with another party, it is believed that limited partnerships may, under certain circumstances, qualify as small producers even if certain of the limited partners are large producers or affiliates thereof. The basis for this is that while limited partners have a financial stake in a limited partnership, such partnership is under the control of the general partner. And absent some other basis of affiliation, the general partner does not control any of the limited partners themselves, nor does any limited partner control the general partner.

Therefore, it is proposed that, assuming no affiliations among the parties exist outside of the limited partnership, a limited partnership be allowed to qualify for a small producer certificate where the general partner is a small producer and the interests of large producers and affiliates thereof, including officers, directors, etc., in such partnership do not total more than 12½ percent. Since in some cases a limited partnership has hundreds of limited partners, it is believed that the partnership should file an affidavit to the effect that interests of large producers do not total in excess of 12½ percent, and should list all limited partners having interests of 10 percent or more, as well as all general partners, and show their respective percentages of ownership.

This raises a further question as to which volumes should count toward the jurisdictional sales volumes of which partners in a limited partnership. Since the general partner is in control, it is proposed that the total volumes sold by the partnership be attributed to the general partner (or general partners, if more than one), and none to the limited partners. Thus, if the partnership sold 5,000,000 Mcf of jurisdictional gas in one calendar year and the general partner thereof made other jurisdictional sales during that same year of 6,000,000 Mcf, the general partner would lose its small producer status. By the same token, however, if the various limited partners each made separate jurisdictional sales, such sales would not be considered sales by affiliates of the partnership and thus would not have a bearing on the 10,000,000 Mcf limitation of the partnership.

To avoid the possibility, however, that a particular party may utilize limited partnerships as a device to circumvent the rate limitations applicable to large producer sales, such as where some limited partners own majority interests, the Commission will consider prohibiting a small producer certificate issued to a limited partnership from covering the interests of any limited partner whose interests in sales under that and other limited partnerships totaled in excess of 10,000,000 Mcf in the calendar year immediately preceding that in which the small producer application is filed by the subject limited partnership.

The proposed revised definition of a "small producer" dictates, at least in part, a change in the definition of "small producer sales." Thus, "small producer sales" are proposed to be defined as those made from "small producer reserves," which in turn are proposed to be defined as:

(i) Reserves developed by a producer while it was in the status of a small producer; and

(ii) Developed reserves held on March 17, 1971, by a small producer, as defined in § 157.40(a)(1), regardless of whether such reserves were developed by a large or small producer.

As in the present regulations, this definition would apply regardless of whether the sales were made under a small producer's own contract or the contract of any other party.

In addition, elimination is proposed for that portion of the present definition

[4] The Dow Chemical Company, Docket No. CI72–657, order issued May 25, 1972; and Docket No. CI73–75, order issued September 19, 1972.

[5] Docket No. CS75–470, in which Texas Oil & Gas Corp. and two of its affiliates, Tonkawa Gas Processing Company and The Nueces Company, whose aggregate sales volumes previously exceeded 10,000,000 Mcf, are applying for a small producer certificate based upon sales during 1974 of 9,125,350 Mcf. However, such volume does not include emergency sales of 426,099 Mcf made by Texas Oil & Gas Corp. in that year (per § 157.29) and of 13,051,276 Mcf made by its wholly-owned intrastate pipeline affiliate, Delhi Gas Pipeline Corporation (per § 2.68).

of "small producer sales" which provides that they include:

(ii) Sales of all interests under a small producer's contract if producers not qualifying as small producers have interests which in the aggregate are no greater than 12½ percent; * * *

It may be noted that a troublesome feature of allowing coverage of large producer working interests under a small producer's certificate is that a large producer's interests in sales under the small producer's contract may vary considerably from year to year as new wells begin and old wells cease to produce, where the large producer's percentage of interest varies with each well. For example, a large producer may own a 5 percent interest in the initial well from which sales are made under a small producer's contract and a 50 percent interest in a second well developed much later and with much greater production, so that the large producer's aggregate interest in total sales under the contract might then jump to, say, 30 percent. The question arises as to what portion, if any, of the large producer's interest can continue to be sold under the small producer's certificate. Such situations are practically impossible to monitor, particularly without a much more detailed annual report form for small producers.

Because of the Commission's lack of jurisdiction over royalty interests,[6] and the treatment of overriding royalty interests noted below, it is proposed that the 12½ percent provision be deleted in its entirety, since there is no apparent justification for allowing large producer working interests also to be covered by small producers' certificates. The fact that such coverage lessens the number of large producer filings does not justify large producers collecting small producer rates. It may be noted that the 12½ percent provision was inserted when small producer regulations were first established (Order No. 308, issued October 29, 1965, in Docket No. R–279, 34 FPC 1202), at which time there was no substantial difference between large and small producer rates.

It is proposed that an overriding royalty interest be treated the same as the working interest to which it is related. When a large producer converts an overriding interest to a working interest, however, the new working interest should be subject to the regulations applicable to large producer sales. This will avoid the possible abuse of the small producer regulations by attempts to circumvent large producer rate limitations.

Additionally, the proposed regulations specify that a small producer certificate may cover sales to a jurisdictional natural gas pipeline company or its affiliate from reserves which were developed by that pipeline company or any affiliate thereof, but that any such sales from reserves developed on or after March 18, 1971, would not qualify as "small producer sales" and also would be subject to such rate limitations as would otherwise apply.

Pursuant to § 157.40(b) of the regulations, "small producers may apply for a blanket certificate to cover all *existing* and *all future* jurisdictional sales * * *" (emphasis added). However, because of the language in paragraph (c) of this section regarding rate regulation of sales from developed reserves acquired from a large producer, it has heretofore been considered a prerequisite that a specific waiver of the latter paragraph be granted, upon request, before sales from "large producer reserves" could be covered by a small producer certificate, even though subject to the rate limitations applicable to large producer sales.

It is proposed to permit small producers to make sales from "large producer reserves" under small producer certificates, thereby eliminating separate certificate applications and rate filings, but with the rates for such sales limited to the area or nationwide rates applicable to comparable large producer sales. In order to provide proper notice to affected parties, however, it is proposed that the small producer under such circumstances be required to file with the Commission a certification of election to have the former large producer sale to which it has succeeded included under the small producer's certificate and to furnish copies of any such certification to its buyer and any other affected parties. The certification can then be merely acknowledged by letter from the Secretary and made part of the small producer docket file of the small producer.

Present subparagraph (2), proposed to be redesignated as subparagraph (3), of § 157.40(b) requires that an applicant list sales for which it holds no certificates or has no rate schedules on file with the Commission, but the present application form does not specifically provide space for such listing. The proposed form, hereinafter discussed, does provide space therefor.

A modification of § 157.40(c) is proposed to conform the language to the proposed definitions of a "small producer" and "small producer sales." The proposed language would eliminate the problems associated with interpreting the intent of the present wording, "acquired by the purchase of developed reserves in place from a large producer," when dealing with situations like Suburban Propane, supra, where a former large producer's sales dropped below 10,000,000 Mcf per year, or where a large producer became a small producer upon severance of its affiliation with a large producer.

The small producer regulations should be modified to provide for automatic termination on a specific date of a small producer certificate as to sales from newly developed or acquired reserves when the small producer no longer qualifies as such, rather than to rely on the Commission to determine the appropriate cutoff date on a case-by-case basis under the present regulations. The establishment of an automatic cutoff date now appears to be warranted, for the following reasons:

(1) Total volume information for sales by a small producer and/or all of its affiliates often is not available on a timely basis. In some cases, information that a small producer's annual sales exceeded the 10,000,000 Mcf limit has not become available until one or more years after the limit has been exceeded, thus leaving in doubt whether or not new sales commenced in the interim are large producer or small producer sales. Under present procedure, if the Commission fails to establish retroactive termination dates in situations of this type, and the sales commenced in the interim are allowed to continue as small producer sales, there is incentive for small producers to withhold or delay reporting of their volumes as long as possible if they have reached the limit.

(2) In some instances, parties who are affiliated within the meaning of the present small producer regulations (§ 157.40(a)(2)) either do not recognize, or they ignore or disagree with the applicability of the definition of "affiliated producer" in their case, and as a result they do not include their affiliates' volumes in their annual reports. In quite a few cases, the Commission is not aware of affiliations. The result is that slippage in terminating small producer certificates is inevitable and in some cases can be severe if retroactive termination dates are not established. Policing of affiliations has been all the more difficult because the present application form, FPC Form No. 314–A, is not designed in a way to require sufficient disclosure. The new form proposed would, we believe, help rectify this.

(3) If an automatic termination date is provided for, everyone is equally on notice that any sales commenced and/or reserves developed after such date cannot be treated as small producer sales or reserves. This would provide pipeline purchasers greater certainty in the rates which they pay.

Accordingly, it is proposed that a small producer's certificate be automatically terminated as of the date it loses its small producer status (i.e., December 31 of the calendar year in which a small producer's jurisdictional sales, including sales by affiliates, first exceed the 10,000,000 Mcf limit[7] or as of the date of merger or acquisition (a) where the producer merges with, acquires, is acquired by, or otherwise becomes affiliated with another producer and the combined sales of the parties, together with those of their affiliates, exceeded that limit in the preceding calendar year, or (b) where the merger or acquisition involves a jurisdictional pipeline company). This would be consistent with the definition of a "small producer" being proposed herein.

The small producer certificate would not be terminated with respect to exist-

[6] *Mobil Oil Corp.* v. *F.P.C.* 463 F. 2d 256 (D.C. Cir. 1971), cert. denied, 406 U.S. 976 (1972).

[7] Where a small producer had previously been a large producer, of course, this would apply to the first calendar year in which sales exceeded 10,000,000 Mcf after the producer had acquired small producer status.

ing sales from "small producer reserves," or from other than "small producer reserves" where the prices are limited to those for comparable large producer sales or are otherwise limited.

No substantive changes are proposed in paragraphs (e) and (i) of § 157.40.

The situation has arisen in a few cases where a large producer succeeds to interests covered by a small producer certificate. In such cases, the Commission has interpreted the regulations as requiring the large producer to obtain regular certificate authorization, with the price limited to the area or national rate applicable to a large producer sale. It is realized that this contrasts with the situation where a small producer becomes a large producer but is allowed to retain its small producer certificate for its sales being made while a small producer, but presumably without such an incentive the small producer might not have even commenced the sale.

Under the regulations being here proposed, a large producer would still be required to obtain separate certificate authorization and file a rate schedule to cover its sales from acquired "small producer reserves," but would be allowed to collect the same rate that a small producer could collect under a small producer certificate for sales from such reserves, subject, however, to the following limitations:

(a) The rate charged by the large producer could not exceed the applicable small producer just and reasonable rate.

(b) The rate for sales by a large producer from a working interest acquired as a result of conversion of an overriding royalty interest held in "small producer reserves" could not exceed the applicable large producer just and reasonable rate.

The bases for permitting a large producer to collect small producer rates, subject to the above-stated limitations, are principally these:

(a) It would be advantageous to small producers for it would expand the market for their sales of developed reserves in place, which in turn could result in earlier recoupment of their investment and re-use of their money for further exploration.

(b) Presumably, a large producer buying developed reserves in place from a small producer would have to pay a price which reflected the price which a small producer could get if it produced the gas itself and sold it directly to a pipeline purchaser.

The proposed limitation to the small producer just and reasonable rate is believed necessary to discourage run-away purchase prices for reserves in place. Also, the limitation would offset the possibility of a large producer's using an advantage it may have in another situation as a lever for negotiating a contract rate above the applicable small producer just and reasonable rate.

To help the analysis of new small producer contracts and amendments filed pursuant to § 157.40(g) of the regulations, it is proposed that the pipeline purchaser indicate in its submittal the small producer just and reasonable rate applicable to the sale to which the filing pertains and the docket number of the small producer certificate involved.

To avoid any possible confusion, it is also proposed that, rather than show the specific interest rate required on refunds which may be required under § 157.40 (h), the interest rate merely be keyed to that prescribed in § 154.102 of the regulations. As it now stands, the interest rate prescribed in § 154.102 is 9 percent pursuant to Order No. 513, issued October 21, 1974, whereas the interest rate shown in § 157.40(h) as presently codified as of April 1, 1975, is 7 percent.

The present Form No. 314–A has certain deficiencies, particularly with respect to providing information on affiliations and sales under contracts not filed with the Commission as rate schedules, which result in an applicant's furnishing incomplete information and cause the Staff additional processing problems. For example, the present form requires that the applicant list, in Items 8 and 9, all owners of more than 10 percent interest in the applicant and their respective interests in other natural gas companies, but does not require a showing of any interests in natural gas companies owned by the applicant itself (other than affiliated purchasers from applicant, in Item 10). Further, as heretofore noted, space is not provided on the form for listing gas sales contracts of the applicant which are not on file as rate schedules, which listing is required by § 157.40(b)(2). The proposed new form and clarifying instructions attached thereto are intended to cure deficiencies by providing the Commission with the necessary information outlined above. The new form would also incorporate the requisite verification instead of its being on a separate form.

At present, small producers are required by § 154.104 of the regulations to submit by April 1 of each year statements of jurisdictional sales for the preceding calendar year on FPC Form No. 314–B, prescribed in § 250.11. Instruction 2 at the top of the present form states that the amount of natural gas stated in the certifying statement shall be equal to the sum of the detailed volumes reported. However, the form is not designed properly for the listing of affiliates and their respective jurisdictional sales volumes, particularly where the affiliates' sales are not made under the reporting producer's small producer certificate. In order to facilitate monitoring of total sales by affiliates, it is believed that such a listing is essential. The proposed listings would also serve to supplement the small producer applications already on file since the form which has been in use is not designed to provide for full disclosure of affiliations. Accordingly, it is proposed that Form No. 314–B be revised per the attachment, which also provides for the separate listing of sales made by the small producer which are not covered by the small producer certificate, such as limited-term sales, emergency sales and sales under the optional certificate procedure.

The instructions for this proposed form advise the producer of the filing requirements under section 7(b) of the Act with respect to any sales previously made but no longer being made at the time the report is filed. Where the producing properties have been transferred to another party, the producer should furnish the date of transfer and the name and address of the successor-in-interest. These instructions on the form can save considerable correspondence.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, not later than July 9, 1976, data, views, and comments or suggestions in writing concerning the proposed revised regulations and revised forms, and replies thereto not later than July 29, 1976. Written submittals will be placed in the Commission's public files and be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submissions to the Commission should indicate the name, title, and mailing address of the person to whom correspondence with regard to the proposal should be addressed and whether the person filing submissions requests a conference with the Staff of the Federal Power Commission to discuss the proposed amended regulations and accompanying forms. The Staff, in its discretion, may grant or deny requests for conference.

Additionally, copies must be served on all participants in this proceeding who appear on the current Secretary's Service List, and each submittal must contain the following statement signed by the person filing or authorizing the filing: "I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of § 1.17 of the rules of practice and procedure. Dated at _____ this _____ day of _____, 19____. Signature." All comments shall be under oath and acknowledged by a notary public or comparable official, as follows: "_____ (Name) _____ being duly sworn, deposes and says [that he is (title and organization, if filing in a representative capacity)]; that he is authorized to verify and file this document; that he has examined the statements contained therein, and that all such statements are true and correct to the best of his knowledge, information, and belief."

The proposed amendments to Part 157 of the Commission's Regulations, Applications For Certificates Of Public Convenience And Necessity And For Orders Permitting And Approving Abandonment

Under Section 7 of the Natural Gas Act, and Part 250, Forms, would be made pursuant to the authority granted the Commission by the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, 14, 15, and 16 (52 Stat. 822, 823, 824, 825, 826, 828, 829, 830; 15 U.S.C. 717c, 717d, 717f, 717i, 717m, 717n, 717o).

Accordingly, the Commission proposes to amend Part 157, Applications For Certificate Of Public Convenience And Necessity And For Orders Permitting And Approving Abandonment Under Section 7 Of The Natural Gas Act, in § 157.40, Chapter I, Title 18 of the Code of Federal Regulations, by substituting therefor the revised language set forth below.

The Commission also proposes to amend Part 250, Forms, in §§ 250.10 and 250.11, Form Nos. 314–A and 314–B, Application For Small Producer Exemption And Annual Statement For Independent Producers Holding Small Producer Exemptions, respectively, Chapter I, Title 18 of the Code of Federal Regulations, by substituting for the present FPC Form Nos. 314–A and 314–B the amended versions of those forms as set out below.

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

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 157.40 is revised to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

(a) *Definitions.* (1) (i) A "Small Producer" is an independent producer of natural gas as defined in § 154.91 of this chapter who is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with such sales of "affiliated producers," were not in excess of 10,000,000 Mcf at 14.65 psia during the the preceding calendar year. As used in this section, the term "jurisdictional sales" includes emergency sales and sales made under limited-term certificates, as well as volumes of gas paid for but not taken under prepayment clauses and volumes of gas sold under other independent producer rate schedules in the proportion that the independent producer seeking to come within this section has an interest in such sales, but does not include sales made pursuant to percentage sales contracts.

(ii) A small producer as defined above will retain small producer status through December 31 of the calendar year in which its total jurisdictional sales (including sales by affiliates) first exceed the 10,000,000 Mcf limitation, except that if a small producer merges with, acquires, is acquired by, or otherwise becomes affiliated with (i) another producer and the total jurisdictional sales volumes of such parties exceeded 10,000,000 Mcf in the immediately preceding calendar year, or (ii) a jurisdictional pipeline company, said small producer's status as such will terminate effective as of the date of such merger, acquisition or other type of affiliation. Upon termination of small producer status, the producer or its survivor (successor) will be considered to be a large producer, notwithstanding the fact that it may still hold a blanket small producer certificate (§ 157.40(b)) which may continue to cover its then-existing "small producer sales" as well as any other sales previously allowed to be covered thereby (subject to rate limitations as to the latter as set forth in paragraphs (b) and (c) of this section).

(iii) For the purposes of this section, a limited partnership will be considered as a small producer, as defined herein, if no general partner is a large producer and if the large producer interests, including affiliates, do not total more than 12½ percent of the partnership itself.

(iv) Where dissolution, divestiture or other severing of affiliation occurs, a surviving party will be considered as having small producer status as of the date of such occurrence provided that jurisdictional sales of natural gas during the preceding calendar year attributable to the reserves acquired or retained by such surviving party as a result of such dissolution, divestiture or other severance, together with any other jurisdictional sales it made in that year, did not exceed 10,000,000 Mcf, and the producer meets the other qualifications also.

(2) "Affiliated producers" are persons who, directly or indirectly, control, or are controlled by, or are under common control with, the applicant producer. Such control exists if the producer has the power to direct or cause the direction of, or as a matter of actual practice does direct, the management and policies of another producer, whether such power is exercised alone or through one or more intermediary companies, or pursuant to an agreement, and whether such power or practice is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, associated companies, relationship of blood or marriage, or any other direct or indirect means. For the further purposes of this section, the term "agreement" shall not include any agreement for the operation of a natural gas producing property or a plant processing natural gas or any joint venture, partnership, nominee, or other type of agreement pertaining to the joint exploration for and development and operation of oil and gas properties, unless such agreement otherwise establishes the power of one producer to direct or cause the direction of the management and policy of another producer. On this basis, the general partners in limited partnerships are considered affiliated with their respective partnerships, but the limited and general partners are not considered affiliated with each other where no affiliations exist outside of the partnerships. Also, for the further purposes of this section, the existence of one or more directors of an applicant producer in common with another producer shall be deemed a conclusive presumption of affiliation and control.

(3) "Small producer sales" are sales of natural gas made pursuant to authorization granted under this section from "small producer reserves," hereby defined as: (i) Reserves developed by a natural gas company while in the status of a "small producer" as defined in paragraph (a) (1) of this section; and (ii) developed reserves held on March 17, 1971, by a "small producer," regardless of whether such reserves were developed by a large or small producer. Such sales are considered as "small producer sales" whether made under a small producer's or any other party's contract. Under no circumstances shall a sale from reserves developed on or after March 18, 1971, by a jurisdictional natural gas pipeline company or an affiliate thereof qualify as a "small producer sale," but such sale may be made under a small producer certificate subject to the rate limitations which would otherwise apply.

(b) *Procedure for securiny blanket small producer certificate.* (1) A small producer may apply for a blanket certificate to cover existing and future jurisdictional sales, except as to those sales authorized pursuant to Sections 2.70 and 2.75 of the Commission's General Policy and Interpretations, that do not raise the producer's total jurisdictional sales on a nationwide basis above 10,000,000 Mcf during any calendar year. An application by such a producer shall include the following information: (i) Total jurisdictional sales on a nationwide basis for the calendar year preceding the application; (ii) a list of outstanding certificates and rate schedules together with names and percentages of interest of other interest owners under such rate schedules, with clear identification of those interests intended to be covered by the applicant's small producer certificate; (iii) a list of outstanding rate schedules of others in which applicant owns an interest together with applicant's percentage of interest; and (iv) the names of all owners (stockholders, partners, joint venturers, etc.) of the applicant with an interest of 10 percent or more, their percentage of ownership in the applicant and in any other natural gas company, and any positions such owners may hold with another natural gas company.

(2) The applicant should clearly identify any sales reported pursuant to (1) above which are not "small producer sales" but which are proposed to be covered by the small producer certificate. These will be subject to the rate limitations applicable to comparable large producer sales or otherwise applicable, as set forth in paragraph (c) of this section. If after filing a small producer application the producer desires to have its small producer certificate cover additional sales which are other than "small producer sales" but which are not otherwise prohibited from being covered, it need only submit to the Commission a certification to that effect and furnish copies of such certification to affected parties. No further action by the Commission will be necessary other than acknowledgment by the Secretary. Such

coverage will be effective as of the date of filing of the aforesaid certification with the Commission, unless otherwise ordered.

(3) An applicant for a blanket small producer certificate who has contracted for jurisdictional sales of gas for which there is no outstanding certificate issued by, or rate schedule filed with, this Commission shall include the following information in his application: (i) A list of all such contracts; (ii) source of production, total rate and the annual volume delivery obligations of the producer under each such contract, together with names and percentages of interest of other interest owners under each such contract, with clear identification of those interests intended to be covered by the applicant's small producer certificate; and (iii) a list of owners of the applicant with an interest of 10 percent or more, their percentages of ownership in the applicant and in any other natural gas company and any positions such owners may hold with other natural gas companies.

(4) The application shall contain the information required by the form set out in § 250.10 of this chapter. A conformed copy shall be served upon each of the applicant's purchasers.

(c) *Rate and certificate regulation under blanket certificate.* Small producers certificated hereunder shall be authorized to make "small producer sales" nationwide pursuant to existing and future contracts at the price specified in each such contract. If the contractually authorized rate does not exceed 130 percent of the Commission-determined base ceiling rate applicable to a comparable large producer sale, subject to any adjustments permitted or required under the particular order of general applicability involved, the rate may be charged and received by the small producer and paid by the purchaser as the lawful, just and reasonable rate approved by the Commission pursuant to sections 4, 5 and 7 of the Act. Rate regulation as prescribed herein shall not apply to any jurisdictional sales made by a small producer under its small producer certificate other than its "small producer sales" as defined in paragraph (a)(3) of this section. Any such other sales shall be subject to the rate limitations applicable to comparable large producer sales or otherwise applicable. Nothing done hereunder shall be recognized by the Commission as triggering any escalation clause in an existing contract involving a producer not covered by a small producer certificate, except as provided in paragraph (f) of this section. No small producer shall be relieved from compliance with section 7(b) of the Natural Gas Act with respect to any small producer sale regulated hereunder.

(d) *Duration of the exemption.* The exemption authorized hereunder shall remain in effect for each small producer until the producer no longer qualifies as a "small producer" (i.e., until December 31 of the calendar year in which the producer's jurisdictional sales first exceed the 10,000,000 Mcf limitation, or until the producer otherwise loses its small producer status as set forth in paragraph (a)(1) of this section) or fails to comply with the terms of the exemption. Upon termination of the exemption, the producer will be required to file separate certificate applications and individual rate schedules for future sales but the exemption will still be effective as to those sales previously covered by the small producer certificate, including sales other than "small producer sales" made at rates limited to those allowed for comparable large producer sales or otherwise limited.

(e) *Limitation on contractual provisions.* No small producer granted exemption under paragraph (c) of this section shall charge or collect any rate for a "small producer sale" of natural gas in excess of the just and reasonable rate prescribed in that paragraph where the contractual right to such rate is based upon any contractual provision which would not be permitted by paragraphs (a), (b), (b–1) and (c) of § 154.93 of this chapter. For the purpose of this limitation, it shall make no difference whether the contract was executed prior to or subsequent to April 3, 1962.

(f) *Filings by large producers with respect to related resales and sales from "small producer reserves" acquired in place.* A large producer may file for the price specified in its related contract for the resale of any natural gas sold to it by a small producer pursuant to the exemption authorized hereunder. In determining whether to accept or suspend such a filing, we shall be guided by the just and reasonable rate for small producers established in paragraph (c) of this section and the size of the differential between the purchase and resale price. In the event the proposed rate is suspended because of the rate level paid to a small producer, the same standards set forth in paragraph (i) of this section with respect to pipeline purchases shall apply to the purchase by the large producer. A large producer under an area rate clause in its resale contract may file for the rate paid by it for gas purchased from a small producer as long as the rate does not exceed the just and reasonable rate prescribed in paragraph (c) of this section. Where a large producer acquires "small producer reserves" in place and makes appropriate certificate and rate filings, it may collect the lesser of its contract rate or the just and reasonable rate for small producers prescribed in the aforesaid paragraph (c).

(g) *Filing of contracts and notification of abandonment.* Pipeline purchasers and large producer purchasers shall file, within 60 days of the execution thereof, each new contract and each contract amendment dated on or after March 18, 1971, for the sale of natural gas to them by a small producer pursuant to the exemption authorized hereunder, together with an estimate of the purchase volumes, the applicable small producer just and reasonable rate as prescribed in paragraph (c) of this section, and the rate to be charged for the first full year after the commencement of deliveries with respect to each new contract and each contract amendment dedicating additional natural gas, and shall notify this Commission of the cessation of deliveries made by a small producer pursuant to the exemption authorized hereunder within 60 days of such cessation. Any submittal required under this paragraph shall show the docket number of the small producer certificate involved.

(h) *Resale authorization for large producer.* A large producer who has filed on or after July 15, 1971, an application for a certificate of public convenience and necessity for the resale of natural gas purchased from a small producer, authorized to sell such gas pursuant to the blanket small producer certificate provisions in paragraph (c) of this section may resell such gas at any time after the filing of such certificate application pending final Commission action thereon. Any amounts collected by a large producer for resales made pursuant to this paragraph in excess of the rate finally determined to be required by the public convenience and necessity for such resales shall be subject to refund with interest at the rate prescribed in § 154.102 of this chapter.

(i) *Pipeline purchases.* If a pipeline company purchases gas from a producer who is selling such gas pursuant to a small producer certificate at a rate in excess of the just and reasonable rate established in paragraph (c) of this section, then the pipeline purchaser must show that the rate paid to the small producer is just and reasonable before it may include any amount in excess of the just and reasonable rate in said paragraph (c) in its cost of service. In determining whether the small producer's rate is just and reasonable in such a situation, the Commission will consider all relevant factors including (1) producer's costs, (2) the pipeline's need for gas, (3) the availability of other gas supplies, (4) the amount of gas dedicated under the contract, (5) the rates of other recent small producer sales previously approved for flow through and (6) comparison with appropriate market prices.

2. Section 250.10 (FPC Form No. 314–A) is revised to read as follows:

§ 250.10 Application for small producer exemptions.

Approved by GAO

DOCKET NO. CS _____

FEDERAL POWER COMMISSION
FPC Form 314-A
Rev. (4-76)
§250.10

APPLICATION FOR SMALL PRODUCER CERTIFICATE

(See § 157.40(b) of the Commission's Regulations under the Natural Gas Act)

PLEASE READ ATTACHED INSTRUCTION SHEET BEFORE COMPLETING THIS FORM

1. NAME OF APPLICANT

2. STATE OF ORGANIZATION

3. LOCATION OF PRINCIPAL PLACE OF BUSINESS

4. TYPE OF ORGANIZATION (Corporation, Partnership, Etc.)

5. PERSON RESPONSIBLE FOR APPLICATION

NAME AND TITLE

MAILING ADDRESS

6. TOTAL JURISDICTIONAL SALES VOLUMES AT Mcf AT 14.65 PSIA FOR CALENDAR YEAR PRECEDING APPLICATION BY APPLICANT AND ALL AFFILIATES.

A. Applicant -

B. Affiliates (List separately) -

C. Total Volumes -

7. LISTS OF CERTIFICATES, RATE SCHEDULES AND CONTRACTS (See reverse side for reporting)

8. OWNERS OF 10 PERCENT OR MORE INTEREST IN APPLICANT: (i) INDIVIDUAL NAME; (ii) PERCENT OF OWNERSHIP; AND (iii) POSITION HELD, IF ANY.

B. OFFICERS, DIRECTORS, TRUSTEES, ETC., OF APPLICANT: (i) INDIVIDUAL NAME; (ii) PERCENT OF OWNERSHIP; AND (iii) POSITION HELD.

SPECIMEN

C. RELATIVES OF APPLICANT WHO ARE "AFFILIATED PRODUCERS."

9. OWNERSHIP AND/OR POSITIONS HELD BY APPLICANT AND AFFILIATES IN OTHER NATURAL GAS COMPANIES: (i) NAME; (ii) PERCENT OF OWNERSHIP; AND (iii) POSITION HELD, IF ANY. (Identify purchasers from applicant or affiliates by an asterisk(*))

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CERTIFICATES AND RATE SCHEDULES OF APPLICANT

APPLICANT	DOCKET NUMBER	RATE SCHEDULE NUMBER	INTEREST OWNERSHIP UNDER RATE SCHEDULE	
			NAME	PERCENT INTEREST

APPLICANT'S SALES UNDER CERTIFICATES AND/OR RATE SCHEDULES OF OTHERS

OTHER SELLER	DOCKET NUMBER	RATE SCHEDULE NUMBER	APPLICANT'S PERCENT INTEREST IN RATE SCHEDULE

SPECIMEN

APPLICANT'S JURISDICTIONAL GAS SALES CONTRACTS WHERE NO CERTIFICATE ISSUED BY OR RATE SCHEDULE FILED WITH COMMISSION

DATE	PURCHASER AND SOURCE OF PRODUCTION	ANNUAL DELIVERY OBLIGATIONS	TOTAL RATE ¢/MCF 14.73 PSIA	OTHER INTEREST OWNERS	
				NAME	PERCENT INTEREST

NOTE: Place an asterisk (*) after each rate schedule, contract or co-owner's name where the sale or interest in a sale is not to be covered by the Small Producer Certificate applied for.

State of _____ }
County of _____ } ss.

The undersigned, being first duly sworn, states that he is the applicant or is the _____ (Agent, title of officer, etc.) of the applicant in the foregoing application; that he has signed said application as or on behalf of said applicant with full authority so to do; that he has read said application and knows the contents thereof; that all of the statements contained herein are true and correct to the best of his knowledge and belief; and that a conformed copy of the application has been served upon each of applicant's purchasers.

_____ (Signature)

Sworn to and subscribed before me a notary public, in and for said county and state, this ____ day of _____, 19__.

_____ (Notary Public)

My commission expires _____
(Seal)

INSTRUCTIONS FOR FPC FORM 314–A, APPLICATION FOR SMALL PRODUCER CERTIFICATE (SECTION 157.40 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT)

General: An independent producer who is is a "Small Producer" as defined in § 157.40 (a)(1) of the Commission's regulations under the Natural Gas Act (i.e., a producer who is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with such sales of "affiliated producers," as defined in §157.40(a)(2) of the regulations, are not in excess of 10,000,000 Mcf at 14.65 psia during the preceding calendar year) may apply for a small producer certificate by completing FPC Form 314–A and filing with the Commission an original and three copies thereof. Copies should also be served on each purchaser and other affected parties. If insufficient space is given for a complete answer with respect to a particular item on the form, continue the answer on a separate sheet, noting the relevant item number. Pursuant to the Commission's small producer regulations, as promulgated by its Order No. 428, as amended, and Opinion No. 742 in Docket No. R–393, a producer who applies for small producer exemption may, subject to the limitations set forth in the regulations, commence new jurisdictional sales and collect its contract rates for existing or new sales as of the date of filing of its application, regardless of pricing area, without further filings with the Commission.

In general, a working interest owner who is not a large producer and who is covered by a small producer's gas sales contract may likewise be covered by the latter's small producer certificate for that particular sale. Such certificate would not, however, cover any other sales made by that working interest owner. Royalty and overriding royalty interests in sales made by small producers are considered covered by their small producer certificates.

Item 1: Name of Applicant—If more than one applicant is involved, a separate form should be submitted for each unless they are affiliated. In any event, each applicant should be identified, and information required on the form should be supplied for each.

Item 2: State of Organization—If applicable.

Item 3: Location of Principal Place of Business—Give city and state.

Item 4: Type of Organization—State whether applicant is a corporation, partnership, trust, or other entity. Briefly describe organizational structure if other than an individual or corporation if not evident from other information furnished in the form. Ordinarily, parties engaged in joint ventures but which are not affiliated should each file a separate application.

Item 5: Person Responsible for Application—Give name, title and address, as indicated on the form. Notify the Commission of any change of address within 30 days thereof.

Item 6: Total Jurisdictional Sales Volumes for Calendar Year Preceding Application by Applicant and All Affiliates—Give volumes in Mcf at 14.65 psia, in total, including volumes sold by all affiliated parties, and separately for each such affiliated party, whether or not it is a joint applicant. Include volumes of gas paid for but not taken under prepayment (e.g., take-or-pay) clauses, volumes sold under limited-term certificates, emergency sales volumes and volumes of gas sold under rate schedules of other parties covering jurisdictional sales, in the proportion that the applicant and affiliates have interests in such sales. Do not include volumes sold pursuant to percentage sales contracts (§ 154.91(e)). Where the applicant is a limited partnership, include jurisdictional volumes sold by all general partners thereof outside of the partnership, but not outside sales by the limited partners. Similarly, where an applicant who is a general partner in a limited partnership is applying for a small producer certificate to cover sales outside of the partnership, the applicant must include the jurisdictional sales volumes of the partnership as part of the applicant's total jurisdictional sales.

Item 7: (A) *List of Certificates and Rate Schedules of Applicant*—List all certificates presently held by the applicant by docket number and all contracts presently on file with the Commission as rate schedules by rate schedule name (if different from applicant's) and number. List all interest owners whose sales are covered by such certificates and/or rate schedules and their respective percentages of ownership. Identify clearly each sale and each interest in each sale which is to be covered by the small producer certificate. Note that sales from reserves other than "small producer reserves," as defined in § 157.40(a)(3) of the regulations, may be covered by the small producer certificate subject to the rate limitations applicable to comparable sales by large producers or otherwise applicable (§ 157.40(c)).

(B) *List of Other Producers' Certificates and Rate Schedules Under Which Applicant's Gas Is Being Sold*—List the names, certificate docket numbers and rate schedule numbers of such other sellers and the applicant's percent interest in each such sale.

(C) *List of Gas Sales Contracts, Where Applicant Has No Outstanding Certificate Issued by, or Rate Schedule Filed with the Commission* (*§ 157.40(b)(3)*)—For each such contract, give the date, purchaser, source of production, total rate (in cents per Mcf at 14.73 psia), annual delivery obligations, and the names and percentages of interests of the other interest owners. Identify clearly each sale and each interest in each sale which is to be covered by the small producer certificate.

Item 8: (A) *Owners of Applicant*—List all owners of 10 percent or more interest in the applicant, giving their names, percentages of interest held, and positions held, if any. If ownership is by other than an individual, furnish details as to ownership and organizational structure of such owner or incorporate such information by reference to information already on file with the Commission. Where the applicant is a limited partnership, all general partners should also be listed, with their percentages of ownership, even if less than 10 percent, and an affidavit should be submitted certifying that the interests of large producers in the partnership do not total in excess of 12½ percent. (As noted above as to Item 6, volumes sold by a limited partner apart from the partnership will not be counted as sales by the partnership, absent some other affiliation between a limited partner and the general partner.)

(B) *Officers, Directors, Trustees, etc., of Applicant*—List all officers, directors, trustees, partners, and any other parties who exercise control over the applicant who are not listed in 8(A), and show their positions and percentages of ownership of applicant.

(C) *Independent Producer Relatives of Applicant*—List all independent producers who are related to the applicant by blood or marriage and who control, are controlled by, or are under common control with the applicant within the meaning of § 157.40(a)(2) of the regulations.

Item 9: Ownership and/or Positions Held by Applicant and Affiliates in Other Natural Gas Companies—List all interests owned and/or positions held by the applicant and the parties listed in Item 8 in other jurisdic-

tional natural gas companies (both independent producers and pipeline companies), either directly or through intermediary parties. Also, identify those natural gas companies listed which purchase jurisdictional gas from the applicant.

3. Section 250.11 (FPC Form No. 314–B) is revised to read as follows:

§ 250.11 Annual statement for independent producers holding small producers exemptions.

FEDERAL POWER COMMISSION
FPC Form 314-B Rev. (4-76)

Approved by GAO
Expires:

§ 250.11

ANNUAL STATEMENT FOR INDEPENDENT
PRODUCER HOLDING SMALL PRODUCER CERTIFICATE
(See Section 154.104 of the Commission's Regulations under the Natural Gas Act)

PLEASE READ ATTACHED INSTRUCTION SHEET BEFORE COMPLETING THIS FORM

Name and Address:

Date:

Docket No.

RETURN THE ORIGINAL AND ONE COPY BEFORE APRIL 1st OF THE YEAR FOLLOWING THAT COVERED BY THE STATEMENT

I hereby certify that the total sales subject to the jurisdiction of the Federal Power Commission made by the undersigned and its affiliates for the calendar year 19___ were _____ Mcf at 14.73 psia. The information, in detail, relating to these jurisdictional sales is shown in Parts A through D below. SIGNED: TITLE:

PART A – SALES MADE BY SMALL PRODUCER UNDER SMALL PRODUCER CERTIFICATE IN SUBJECT DOCKET (Sales from own interests only)

DATE OF CONTRACT (a)	SOURCE OF GAS: STATE (b)	SOURCE OF GAS: COUNTY (c)	DOCKET NUMBER (d)	RATE SCHED. NO. (e)	PURCHASER (f)	PERCENT INTEREST (g)	VOLUME Mcf (1000 cu. ft.) (h)	REVENUE RECEIVED (i)
					SUBTOTAL			

SPECIMEN

PART B – OTHER SALES MADE BY THE SMALL PRODUCER CERTIFICATE HOLDER (Sales from own interests only)

DATE OF CONTRACT (a)	SOURCE OF GAS: STATE (b)	SOURCE OF GAS: COUNTY (c)	DOCKET NUMBER (d)	RATE SCHED. NO. (e)	PURCHASER (f)	PERCENT INTEREST (g)	VOLUME Mcf (1000 cu. ft.) (h)	REVENUE RECEIVED (i)
					SUBTOTAL			

PART C – SALES UNDER OTHER PRODUCERS' CERTIFICATES AND RATE SCHEDULES

	INTEREST IN VOLUME (BOLD) (BOLD)	REVENUE RECEIVED
List, in summary, your interest in the volumes of natural gas sold and corresponding revenues received during the reporting year under other producers' certificates and/or FPC Gas Rate Schedules.		

PART D – AFFILIATES' SALES

NAME OF AFFILIATE (a)	VOLUME Mcf (1000 cu. ft.) (b)	REVENUE RECEIVED (c)
SUBTOTAL		32

SPECIMEN

INSTRUCTIONS FOR FPC FORM 314–B, ANNUAL STATEMENT BY INDEPENDENT PRODUCER HOLDING SMALL PRODUCER CERTIFICATE

General: Pursuant to § 154.104 of the Commission's regulations under the Natural Gas Act, annual statements certifying to the matters enumerated in FPC Form 314–B shall be filed by all independent producers, either individually or by groups, who have been exempted under the provisions of § 157.40 of the regulations. The statements shall be sub-

mitted by April 1 of each year for the preceding calendar year. Where two or more producers jointly hold a small producer certificate in the same docket but are not affiliated with each other within the meaning of § 157.40(a)(2), each shall file a separate annual statement. All volumes must be reported on a CALENDAR YEAR basis at a pressure base of 14.73 psia. The amount of natural gas stated in the certifying statement shall be equal to the sum of the detailed volumes shown in Parts A through D of the form.

With respect to any contracts listed for which you previously reported sales data and are now reporting zero sales, include an explanation. If the sale has terminated, advise whether abandonment authorization has been obtained or has been applied for, pursuant to section 7(b) of the Natural Gas Act and § 157.30 of the Commission's regulations thereunder, giving the docket number and/or date of filing of the application, if any. If the gas producing properties involved have been transferred to another party, furnish the date of transfer and the name and address of the successor-in-interest and any other pertinent information available.

If additional space is needed, use the back of the form, attach extra pages or submit a request to the Federal Power Commission, Bureau of Natural Gas, Producer Data Unit, Washington, D.C. 20426, for extra copies.

PART A—SALES MADE BY SMALL PRODUCER UNDER SMALL PRODUCER CERTIFICATE IN SUBJECT DOCKET

List all sales made under the small producer certificate held in the subject docket. The dates of the contracts under which the small producer certificate holder sold natural gas should be listed in column (a). The origin of the gas should be shown separately by state and county in columns (b) and (c). If the gas sold under a contract originates in different states/counties then use a separate line to segregate those amounts attributable to the different states and counties. In columns (d) and (e), identify the certificate docket and rate schedule, if any, under which each listed sale was made prior to its being covered by the small producer certificate. Enter the name of the purchaser of the gas in column (f), the percentage of interest of the reporting producer in sales made under the listed contract in column (g), and the volume sold during the reporting year attributable to the reporting producer's interest and corresponding revenues received in columns (h) and (i), respectively.

PART B—OTHER SALES MADE BY THE SMALL PRODUCER CERTIFICATE HOLDER

List all jurisdictional sales made by the holder of the small producer certificate pursuant to other authorizations (e.g., emergency sales and sales made under limited-term certificates and optional procedure certificates). The information required is the same as in Part A, except that the certificate docket and rate schedule shown should be those under which each listed sale is still covered. Where the sales were emergency sales, however, place an "E" in column (d) and leave colume (e) blank.

PART C—SALES UNDER OTHER PRODUCERS' CERTIFICATES AND/OR RATE SCHEDULES

See the instructions on the form.

PART D—AFFILIATES' SALES

List in column (a) all affiliates who made jurisdictional sales of gas during the reporting year and, in summary for each affiliate, in columns (b) and (c), the total jurisdictional sales made and corresponding revenues received by such affiliate.

[FR Doc.76-15751 Filed 5-28-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 552-5; PP6E1746/P26]

PESTICIDE PROGRAMS

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

PROPOSED TOLERANCE FOR THE PESTICIDE CHEMICAL 2-METHYL-4-CHLOROPHENOXYACETIC ACID

Dr. C. C. Compton, Coordiator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, has submitted a pesticide petition (PP6E1746) to the Environmental Protection Agency on behalf of the IR-4 Technical Committee and the State Agricultural Experiment Station of California. This petition requests that the Administrator, pursuant to section 408 (e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid in or on the raw agricultural commodity group seed and pod vegetables (180.34) at 0.1 part per million (ppm) resulting from application of the herbicide in its acid form or in its sodium salt, amine salt, or ester formulations.

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the tolerance established by amending 40 CFR 180.339 will protect the public health. There is no reasonable expectation of residues in eggs, milk, and the meat, fat, and meat byproducts of livestock as delineated in 40 CFR 180.6(a)(3). It is proposed, therefore, that the tolerance be established as set forth below, and that since the raw agricultural commodity peas is included in the group seed and pod vegetables, its tolerance be deleted concurrently.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 11, 1976, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before June 11, 1976, and should bear a notation indicating both the subject and the petition/document control number "PP6E1746/P26". All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register section from 8:30 a.m. to 4 p.m. Monday through Friday.

The comment period has been reduced from 30 days to 10 days, pursuant to 5 U.S.C. 553(d)(3), to facilitate the use of this pesticide within the current growing season on seed and pod vegetables, thereby reducing the likelihood of a substantially reduced crop yield.

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

Dated: May 27, 1976.

JOHN B. RITCH, Jr.,
Director, Registration Division.

It is proposed that Part 180, Subpart C, § 180.339 be amended (1) by alphabetically inserting a tolerance of 0.1 ppm for the raw agricultural commodity group seed and pod vegetables in paragraph (a) and (2) by deleting the tolerance for peas in paragraph (a) to read as follows:

§ 180.339 2-methyl-4-chlorophenoxyacetic acid; tolerances for residues.

(a) * * *

Commodity:	*Parts per million*
* * * * *	
Vegetables, seed and pod	0.1
* * * * *	

[FR Doc.76-16022 Filed 5-28-76;9:57 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.35]

DIRECTOR, REGIONAL TECHNICAL AIDS CENTER, MEXICO

Redelegation of Authority Regarding Contracting Functions

In FR Document 76-8603 appearing at page 12719 in the FEDERAL REGISTER of March 26, 1976, the ninth and tenth lines of the first paragraph are corrected to read as follows:

"paragraph 4. as follows:
"4. Grants (other than grants to for-".

Dated: May 17, 1976.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.76-15826 Filed 5-28-76;8:45 am]

[Redelegation 99.1.22, Amendment No. 2]

AID REPRESENTATIVE, KOREA

Redelegation of Contracting Authority

Pursuant to the authority delegated to me by Redelegation 99.1 (38 FR 12836), as amended, from the Assistant Administrator for Program and Management Services, Redelegation 99.1.22 (38 FR 27849), as amended, is hereby further amended to delete reference to "Mission Director, USAID, Korea" wherever it appears, and to substitute reference to "AID Representative to Korea" in its place. Redelegation 99.1.22 is otherwise unchanged.

This amendment shall be effective immediately.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to Redelegation 99.1.22 are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the AID Representative, Korea.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed.

Dated: May 14, 1976.

HUGH L. DWELLEY,
Director, Office of
Contract Management.

[FR Doc.76-15827 Filed 5-28-76;8:45 am]

DIRECTOR, OFFICE OF PROJECT DEVELOPMENT BUREAU FOR ASIA

Redelegation of Authority

MAY 5, 1976.

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 F.R. 449), as amended, with respect to Loan Agreements; No. 38, dated April 10, 1964 (29 F.R. 5280), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations; No. 99, dated April 27, 1973 (38 F.R. 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 F.R. 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Director, Office of Project Development, Bureau for Asia, authority to exercise any of the following functions assigned to me for countries within my area of responsibility, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act), in accordance with the terms of the authorization of such loan or grant;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, including the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders—Technical Services (PIO/T); and

(e) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements.

The authorities herein redelegated may be exercised by a person who is performing the functions of Director in an "Acting" capacity within the Office of Project Development.

The authorities enumerated above may be redelegated to Mission Directors for countries within my area of responsibility in whole or in part as may be deemed necessary or desirable, or, in countries with no missions, to the principal A.I.D. official or principal diplomatic officer there.

The redelegations of Authority from the Assistant Administrator for Supporting Assistance to the Director, Office of Capital and Commercial Development, Bureau for Supporting Assistance dated May 7, 1973 (38 F.R. 13035) and to the Director, Office of Technical Development, Bureau for Supporting Assistance dated May 1, 1973 (38 F.R. 12136), are hereby revoked.

All existing authorities within Missions with respect to loans and grants remain in full force and effect.

This redelegation does not affect existing authorities in other A.I.D. Washington offices with respect to loans and grants, including authorities with respect to Project Implementation Orders—Participants (PIO/P) and Project Implementation Orders—Commodities (PIO/C).

This redelegation of authority is effective immediately.

Dated: May 5, 1976.

ARTHUR Z. GARDINER, Jr.,
Assistant Administrator,
Bureau for Asia.

[FR Doc.76-15708 Filed 5-28-76;8:45 am]

[No. 115]

ITALIAN DISASTER RELIEF

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961 (26 FR 10608), as amended, I hereby delegate to Director, Office of American Schools and Hospitals Abroad authority, without power to redelegate, to (a) sign grants for disaster relief and rehabilitation activities concerning Italy, and (b) to sign agreements with other U.S. Government agencies for the provision of services in connection with such activities.

This delegation of authority shall be effective immediately.

Dated: May 24, 1976.

DANIEL PARKER,
Administrator.

[FR Doc.76-15707 Filed 5-28-76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

COTTON YARN FROM BRAZIL

Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on March 9, 1976, alleging that payments or bestowals, conferred by the Government of Brazil upon the manufacture, production or exportation of cotton yarn from Brazil constitute the payment or bestowal of a bounty or grant

within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The cotton yarn is provided for in the Tariff Schedules of the United States under item numbers 300.60 through 302.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended, (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than September 9, 1976, as to whether or not the alleged payments or bestowals, conferred by the Government of Brazil upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than March 9, 1977.

This notice is published pursuant to section 303(a)(3) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)) and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: May 21, 1976.
DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-15613 Filed 5-28-76;8:45 am]

BICYCLES FROM THE REPUBLIC OF CHINA

Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on April 19, 1976, alleging that payments or bestowals, conferred by the Government of the Republic of China (Taiwan) upon the manufacture, production or exportation of bicycles from Taiwan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than October 19, 1976, as to whether or not the alleged payments or bestowals conferred by the Government of the Republic of China upon the manufacture, production, or exportation of the above described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than April 19, 1977.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)) and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: May 21, 1976.
DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.76-15614 Filed 5-28-76; 8:45 am]

Internal Revenue Service

DEPARTMENT OF LABOR

Labor-Management Services Administration

EMPLOYEE BENEFIT PLANS

Citizens and Southern National Bank Retirement Trust, et al.

Correction

In FR Doc. 76-15199, appearing at page 21383, in the issue for Tuesday, May 25, 1976, change the headings to read as set forth above.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

RAISIN ADVISORY BOARD

Notice of Public Meeting

Under the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is given of a meeting of the Raisin Advisory Board at 1:30 p.m., June 24, 1976, in the Regency Imperial Room of the Fresno Hilton, 1055 Van Ness Avenue, Fresno, California.

The purpose of the meeting is to: Review payment rates for containers used for storage of reserve tonnage raisins; receive a report of the International Sultana Conference meeting; and receive reports on miscellaneous program matters. The meeting will be open to the public.

The Raisin Advisory Board is established under the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S. 601-674).

The names of Board members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Clyde E. Nef, Manager, Raisin Administrative Committee, 732 North Van Ness Street, Fresno, California 93720; telephone 209-268-5666.

Dated: May 25, 1976.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.76-15745 Filed 5-28-76;8:45 am]

Forest Service

PROPOSED TIMBER MANAGEMENT PLAN, BOISE NATIONAL FOREST

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed Timber Management Plan, Boise National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-76-16.

The purpose of the environmental statement is to evaluate the primary and secondary effects of the proposed Boise National Forest Timber Management Plan.

The major objective of the plan is to provide an orderly and sustained timber management program for developing the timber resource potential and yield capability of the Boise National Forest.

This draft environmental statement was transmitted to CEQ on May 24, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
Regional Planning Office, U.S. Forest Service, Federal Building, Room 4408, 324 25th Street, Ogden, Utah 84401.
Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

A limited number of single copies are available upon request to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706. Comments must be received by July 22, 1976, in order to be considered in the preparation of the final environmental statement.

Dated: May 24, 1976.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.76-15823 Filed 5-28-76;8:45 am]

Soil Conservation Service

GROVE RIVER WATERSHED, GEORGIA

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of

1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Grove River Watershed, Banks and Jackson Counties, Georgia.

The environmental assessment of this federal action indicates that this portion will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, USDA, 206 Federal Building, 355 East Hancock Avenue, Athens, Georgia 30601, has determined that the preparation and review of an environmental impact statement is not needed for this portion of this project.

The project concerns a plan for watershed protection, flood prevention, and municipal and industrial water supply. The planned works of improvement, as described in the negative declaration, include the remaining conservation land treatment, remaining critical area planting, floodwater retarding structure No. 33, and multiple-purpose structure No. 51–M.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, USDA, 206 Federal Building, 355 East Hancock Avenue, Athens, Georgia 30601. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 16, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 21, 1976.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76–15704 Filed 5–28–76;8:45 am]

PRYOR CREEK WATERSHED, OKLAHOMA

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for a portion of the Pryor Creek Watershed Project, Mayes, Rogers, and Craig Counties, Oklahoma.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement covered by this negative declaration include conservation land treatment supplemented by eleven floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, USDA, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until June 16, 1976.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 19, 1976.

JAMES W. MITCHELL,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76–15824 Filed 5–28–76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Public Law 92–463) and Office of Management and Budget Circular A–63 (Revised March 27, 1974), and after consultation with OMB, the Secretary of Commerce has determined that the establishment of the Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will provide an organized and continuing channel of communication between the Asian and Pacific Americans population and the Bureau of the Census on the problems and opportunities of the Twentieth Decennial Census as they relate to the Asian and Pacific Americans population of the United States. Major efforts to improve decennial census data are necessary since such data are widely used for such critical matters as legislative apportionment, allocation of government funds, and public and private program planning.

Having an established channel of communication will be helpful to the Census Bureau in its efforts to develop the procedures and techniques which might yield the necessary improvements. To the extent that these efforts are successful, there will be direct and substantial gain to the Asian and Pacific Americans population.

The Committee will draw on the knowledge and expertise of its members to provide advice during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, recommending subject content and tabulations of especial use of the Asian and Pacific Americans population, expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community, and generally maximizing the usefulness of the census product.

The Committee will consist of 21 members appointed by the Secretary of Commerce from among a broad spectrum of community leaders, such as neighborhood council members, elected public officials, executives of minority organizations and academics. The Committee will report and be responsible to the Director, Bureau of the Census.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 (Revised March 27, 1974). Its charter will be filed under the Act, 15 days from the date of the publication of this notice.

Dated: May 24, 1976.

JOSEPH E. KASPUTYS,
Assistant Secretary for Administration.

[FR Doc.76–15713 Filed 5–28–76;8:45 am]

Domestic and International Business Administration

FRIEDRICH ABEL, ET AL.

Export Privileges Restored

In the Matter of:

1. Abel, Friedrich, Abel, Rudolph, Metalimport, S.A.R.L., Metalimport Trust.
2. Abou-Hadid Freres, Hadid Freres, Abou.
3. Attijara-Societe, Aron Berger, Bermal Importation-Exportation, S.A.R.L., Comptoir European D'Exportation et D'Importation, CEEI.
4. Ban-Ling, Chang, Oversea Trading Co., Tsong, C.S.
5. Beydoun, Ihsan M.
6. Brandes, Ralph Harry.
7. Bramall, R. E., MacDonald, Hall & Co.
8. Jesus Canales.
9. C.H. Pharmacy, Well Lu Trading, Chanwit Kunothai.
10. Cohen, Nissan Simon.

11. Compadimex, D'Importation et D'Exportation Cie., De Metz, Rene, Van Der Zanden, Hendrik Frans.
12. KESCO GmbH, Hans Kessler Jr., Hans Kessler Sr., South Sea Trading Co., Ltd.
13. Paul Comptoir, Paul Stevens, Stevens & Co., S.A.
14. Corti, Dante, Societa Italiana Gestione Immobiliari (S.I.G.I.).
15. Del Bo, Giacinto Leopoldo.
16. Elimex, Fleschner, Richard, Fraenkel, Mrs. Chista, Hans Wolff.
17. Felix, Mario, dba Internationale Transporte, Internationale Transporte.

EXPORT PRIVILEGES RESTORED

Pursuant to the Export Control Act of February 28, 1949, as amended and supplemented by the Export Administration Act of 1969, 50 U.S.C. App. § 2021 et seq., and § 2401 et seq., certain parties were denied full export privileges; their names appear on the Table of Denial and Probation Orders, 15 CFR Part 388, Supp. I & II. The current activities of those parties have been scrutinized with view to restoring their export privileges.

The Director, Compliance Division, reported that no party listed above is suspect or is known to have failed to comply with the terms of probation.

The Hearing Commissioner, in view of the Compliance Division's report, recommends the respondents be restored to full export privileges.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report relative to the respondents he has recommended for restoration and there are none presently suspect in connection with any violations of the United States export laws or U.S. Department of Commerce export regulations. It is fair, fitting and proper that respondents who have so manifested their intentions to comply and are in compliance with the export regulations, be restored to full export privileges. Restoration is in accord with the purpose and intent of the law, the regulations and the policies of this Department. Therefore, it is

ORDERED

The parties listed above are hereby unconditionally restored to all United States export privileges.

Dated: May 24, 1976.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.76-15825 Filed 5-28-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

GRANTS FOR VACCINATION PROGRAMS AND OTHER DISEASE CONTROL PROGRAMS

Delegations of Authority

Notice is hereby given that the following delegation and redelegations have been made effective May 24, 1976, under Section 317 of the Public Health Service Act, as amended, regarding grants for vaccination programs and other disease control programs.

1. Delegation from the Secretary to the Assistant Secretary for Health, with authority to redelegate, of all the authorities vested in the Secretary of Health, Education, and Welfare by Section 317 of the Public Health Service Act, as amended, with the exception of authority to issue regulations and submit reports to the President and the Congress.

This delegation supersedes all of the Secretary's previous delegations of authority under Section 317 of the Public Health Service Act. Redelegations made under the Secretary's previous delegations may continue for no more than 90 days from the effective date of this delegation.

2. Delegation from the Assistant Secretary for Health to the Regional Health Administrators of the authority delegated to the Assistant Secretary for Health for awarding grants to States and, with the approval of the State health authority, to political subdivision or instrumentalities of the States for communicable and other disease control programs, excluding the 1976 National Influenza Immunization Program. This authority may be redelegated.

This delegation supersedes all previous delegations to the Regional Health Administrators of authority under Section 317 of the Public Health Service Act, as amended.

3. Delegation from the Assistant Secretary for Health to the Director, Center for Disease Control, of the authority delegated to the Assistant Secretary for Health under Section 317 of the Public Health Service Act, as amended, relating to communicable and other disease control programs, with the exception of the authority delegated by the Assistant Secretary for Health to the Regional Health Administrators for awarding grants under this Section.

The authority delegated to the Director, Center for Disease Control, specifically includes the authority to award grants under the 1976 National Influenza Immunization Program. The authority to award grants under the 1976 National Influenza Immunization Program may not be redelegated. Otherwise, this authority may be redelegated.

This delegation supersedes all previous delegations to the Director, Center for Disease Control, of authority under Section 317 of the Public Health Service Act, as amended.

Redelegations of authority under Section 317 of the Public Health Service Act, as amended, which are in effect within the Center for Disease Control may continue in effect for no longer than 90 days from the effect date of this delegation.

Dated: May 24, 1976.

JOHN OTTINA,
Assistant Secretary for Administration and Managament.

[FR Doc.76-15847 Filed 5-28-76;8:45 am]

Food and Drug Administration

[Docket No. 75N-0103]

LASER RADIATION BIOLOGICAL EFFECTS

Notice of Meeting

The Food and Drug Administration (FDA) announces that an open public meeting on laser radiation biological effects will be held on July 13, 1976, from 9 a.m. to 5 p.m. at the Bureau of Radiological Health, Rm. T-416, 12720 Twinbrook Parkway, Rockville, MD.

A radiation safety performance standard for laser products was published in the FEDERAL REGISTER of July 31, 1975 (40 FR 32252), with an effective date of August 2, 1976. Biological effects research has continued, and several groups have indicated to FDA that new data that will further help define laser hazards are becoming available. An open public meeting will be held to give interested parties an opportunity to present new biological effects data about laser radiation safety levels. Of special interest are data related to the hazards of laser radiation in the red, blue, and ultraviolet portions of the electromagnetic spectrum.

Information on the biological basis for the laser performance standard has been filed with the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Copies of the following two reports, included in the information, may be requested from Dr. Alan Andersen at his address given below:

1. "Biological Bases For and Other Aspects of a Performance Standard for Laser Products," FDA 75-8004.

2. "A Review of Selected Bioeffects Thresholds for Various Spectral Ranges of Light," FDA 74-8010.

Observers from the public are invited to attend and participate in the meeting, but attendance will be limited to space available. A verbatim transcript of the meeting will be made after the meeting and will be filed with the office of the Hearing Clerk, Food and Drug Administration.

For additional information and to reserve time for presentations, contact Dr. Alan Andersen, Division of Biological Effects, Bureau of Radiological Health (HFX-120), 5600 Fishers Lane, Rockville, MD 20852, telephone (301) 443-2296. Written presentations may be submitted for inclusion in the official transcript of the meeting. Requests for presentation time and submissions of written material should be made by June 25, 1976.

Dated: May 25, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-15739 Filed 5-28-76;8:45 am]

Health Services Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Rescinding Prior Notices and Intention To Enter Into Agreement Designating PSRO Area IV of the State of New Jersey

Notice is hereby given that the Notices of March 25, 1976 (41 FR 12327) and May 7, 1976 (41 FR 18899) regarding the intention of the Secretary of Health, Education, and Welfare to enter into an agreement designating the Essex Physicians' Review Organization as the Professional Standards Review Organization for PSRO Area IV are hereby rescinded. The reasons for the rescission of the Notices and the issuance of the new notification to doctors of medicine and osteopathy in PSRO Area IV of New Jersey set forth below are as follows:

Through a clerical error, the Notice of March 25, 1976, incorrectly stated that the number of doctors of medicine and osteopathy which had been determined by the Secretary to be engaged in active practice in PSRO Area IV of New Jersey was 1,831. The number which had in fact been so determined was, and is, 2,709. In view of the magnitude of this error, it was considered desirable to extend the period for filing objections an additional 15 days beyond the 30 days afforded by the March 25 Notice. This was done by a Notice published in the FEDERAL REGISTER on May 7, 1976. Although the May 7 Notice represented an effort to provide an equitable solution to the problems caused by the earlier error, it is recognized that the regulations (42 CFR Part 101, Subpart B) contain no explicit authority for such a 15-day extension of time for objection. In order to avoid possible legal controversy which might result from this irregularity and inordinately delay the implementation of the PSRO program in Area IV, it has been concluded that the better course is to begin anew with a Notice setting forth the correct number of doctors in the area and otherwise meeting the requirements of 42 CFR 101.104.

Accordingly, notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Essex Physicians' Review Organization, Inc. for PSRO Area IV, which area is designated a Professional Standards Review Organization area in 42 CFR 101.34.

The Secretary has determined that the Essex Physicians' Review Organization, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the law of the State of New Jersey, as a nonprofit professional organization whose membership is voluntary and its membership comprises at least 25 percent of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IV of the State of New Jersey.

As stipulated in its Articles of Incorporation, the principal officers of the Essex Physicians' Review Organization, Inc. are:

Name and Office Held

1. Arthur Bernstein, M.D., President.
2. George L. Benz, M.D., Vice President.
3. A. E. Bythewood, M.D., Secretary.
4. John A. Ferrara, D.O., Treasurer.

The official address of the corporation is 144 South Harrison Street, East Orange, New Jersey 07018.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IV of the State of New Jersey who objects to the Secretary's entering into an agreement with the Essex Physicians' Review Organization, Inc., on the grounds that this organization is not representative of doctors in such area may, within 30 days from the date of publication of this Notice, mail such objection in writing to the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's home and office addresses, legibly printed full name, signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in the medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,709 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area IV of the State of New Jersey. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Essex Physicians' Review Organization, Inc. is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1 (f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Only objections received after the date of the publication of this Notice and postmarked prior to the expiration of 30 days from the date of such publication will be tabulated for the purposes of determining the number of objections under 42 CFR 101.105.

Copies of the list of physicians who have been determined by the Secretary to be in active practice in the PSRO area will be mailed to those persons who make written request for such mailing to the Secretary at the above listed address after those requesting such list have completed a form assuring that such list will be used solely for purposes of verification of the number of physicians in active practice in the area. Such list will also be available for inspection during regular business hours at Crossley Surveys, Inc., 909 Third Avenue, New York, New York to any person who requests such inspection in writing at least two days (excluding weekends and holidays) prior to the date the inspection is to be made and who completes a form as described above.

Dated: May 25, 1976.

ROBERT VAN HOEK,
Deputy Administrator,
Health Services Administration.

[FR Doc.76–15878 Filed 5–28–76;8:45 am]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Notice of Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, P.L. 92–634, that the seventh meeting of the Community Education Advisory Council will be held June 18 and 19, 1976. The Friday meeting will be held at the Governor's House Motel, located at 2705 E. South Boulevard in Montgomery, Alabama. On Friday, the Council meeting will start at 9 a.m. in the Director's Room. At 10 a.m. the Council will joint the Alabama Community Education Association for a series of workshops ending at 12 Noon.

Friday afternoon the Council will travel to Tuskegee, Alabama for the remainder of their meeting. This meeting will be at Tuskegee Institute, Room 110 of the Robert Russa Moton Hall, and will begin at 3:15 p.m. and end at 5:15 p.m. The Saturday meeting will begin at 8:45 a.m. and end at 4:30 p.m.

The Community Education Advisory Council is authorized under Public Law 93–380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

The meeting of the Council will be open to the public. The proposed agenda includes:

(1) Procedures for evaluation.
(2) Needs assessment review.
(3) Future role of Advisory Council.
(4) Status of activities of the Federal Community Education Program.

(5) Reports and studies to be made by Council.

(6) Other administrative matters and related business.

(7) Visitation of Macon County programs.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on May 21, 1976.

JULIE ENGLUND,
Director, Community, Education Program.

[FR Doc.76-15829 Filed 5-28-76;8:45 am]

Public Health Service

HEALTH RESOURCES ADMINISTRATION

Revision of Health Service Areas

Section 1511 of the Public Health Service Act, as added by the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), requires that there shall be established by the Secretary of Health, Education, and Welfare, in accordance with the requirements of that section, health service areas throughout the United States. In accordance with section 1511(b)(1) of the Act, the Governors of the fifty States and the Commonwealth of Puerto Rico and the Mayor of the District of Columbia were notified by letter dated January 21, 1975, of the initiation of proceedings to establish health service areas. In response to the health service area designation plans submitted by Governors in accordance with guidelines published by the Department, health service areas were designated and a listing published as a notice in the FEDERAL REGISTER of September 2, 1975 (40 FR 40306-40315). (A later correction notice also was published in the FEDERAL REGISTER of January 5, 1976 (41 FR 804-805).)

The Governor of Pennsylvania indicated to the Secretary of Health, Education, and Welfare subsequent to the initial designation of health services areas on September 2, 1975, that the five-county health service area in southeastern Pennsylvania (Area 1) as originally proposed by him and designated by the Secretary was, upon further consideration, not an appropriate geographic region for the effective planning and development of health services.

The Secretary in turn reviewed the boundaries of that area as initially designated and concluded that they were not appropriate because (1) of the need that the boundaries of health service areas in that part of the State be identical with those of the existing PSRO areas and (2) the effective cooperation of local elected officials essential to the establishment and functioning of Health Systems Agencies would be more readily assured if health service area boundaries more nearly corresponded with local political jurisdictions in the Metropolitan Philadelphia region.

Accordingly, pursuant to section 1511 of the Act, the following shall constitute the revised health service areas in southeastern Pennsylvania, upon their publication in the FEDERAL REGISTER (June 1, 1976):

PENNSYLVANIA

Health Service Area number *1* is the geographic area comprised of the counties of: The single county of Philadelphia.

Area 10

Bucks Montgomery

Area 11

Chester Delaware

Dated: April 14, 1976.

R. MOURE,
Acting Assistant Secretary for Health.

Approved: May 26, 1976.

DAVID MATHEWS,
Secretary.

[FR Doc.76-15921 Filed 5-28-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-332; FDAA-503-DR]

TERRITORY OF GUAM

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 22, 1976, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Territory of Guam resulting from Typhoon Pamela beginning about May 20, 1976, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in Guam.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert C. Stevens, HUD Region IX, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area in the Territory of Guam to have been adversely affected by this declared major disaster:

TERRITORY OF GUAM

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: May 22, 1976.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.76-15791 Filed 5-28-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORTS DISTRICT OFFICE; ENGINEERING AND MANUFACTURING DISTRICT OFFICE, CLEVELAND, OHIO

Notice of Relocation

Notice is hereby given that on or about June 15, 1976, the Airports District Office presently located at 21010 Center Ridge Road, Rocky River, Ohio 44116; and the Engineering and Manufacturing District Office, presently located at 5241 Wilson Mills Road, Suite 27, Richmond Heights, Ohio 44104, will be moving to the Federal Facilities Building, Cleveland Hopkins International Airport, Cleveland, Ohio 44104.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Des Plaines, Illinois, on May 19, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-15729 Filed 5-28-76;8:45 am]

FLIGHT STANDARDS DISTRICT OFFICE, CLEVELAND, OHIO

Notice of Relocation

Notice is hereby given that on or about June 15, 1976, the Flight Standards District Office presently located at 21046 Brookpark Road, Cleveland, Ohio 44135, will be moving to the Federal Facilities Building, Cleveland Hopkins International Airport, Cleveland, Ohio 44104.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Des Plaines, Illinois, on May 19, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.76-15730 Filed 5-28-76;8:45 am]

Federal Railroad Administration

[FRA Waiver Petition No. HS-76-4]

CURTIS MILBURN AND EASTERN RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Curtis Milburn and Eastern Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. Secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting

written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–76–4, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before June 28, 1976, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Issued in Washington, D.C. on May 24, 1976.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel Safety Regulation Division, Federal Railroad Administration.

[FR Doc.76–15790 Filed 5–28–76;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act (P.L. 92–463) and § 800.5(c) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 C.F.R. Part 800) that on June 1, 1976, at 8:00 p.m., a public information meeting will be held at the Civic Auditorium, La Crosse, Wisconsin. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed U.S. Postal Service construction and demolition project in La Crosse as it affects the Old La Crosse Post Office, 4th and State Streets, La Crosse, Wisconsin, a property determined eligible for inclusion in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the U.S. Postal Service.

III. A statement by the Wisconsin State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, N.W., Washington, D.C. 20005. (202–254–3380).

It is necessary to depart from the normal 15-day notice policy because the request for the Council's comment came after the undertaking affecting the National Register property had already begun and construction has been halted until the public information meeting can be held and the review process completed. Because of these circumstances, the Executive Director of the Council has determined that it is in the public interest to hold the public information meeting at the earliest possible date.

The record for this meeting will be held open until 5:00 p.m. on Friday, June 4, 1976. The Council will accept written or telegraphic communications at its headquarters.

JOHN D. MCDERMOTT,
Acting Executive Director.

[FR Doc.76–15822 Filed 5–28–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 28744; Order 76–5–120]

CONTINENTAL AIR LINES, INC.
Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of May, 1976.

Application of Continental Air Lines, Inc., for authority to suspend service temporarily over segment 3 of route 29—Docket 28744; agreement between Continental Air Lines, Inc., and Rio Airways, Inc.—Agreement CAB 25762.

ORDER SETTING APPLICATION FOR HEARING

On January 12, 1976, Continental Air Lines filed an application, pursuant to section 401(j) of the Act and Part 205 of the Economic Regulations, for an authorization to suspend service temporarily over segment 3 of route 29 [1] for a period of 5 years. In addition, the carrier requests approval, pursuant to section 412 of the Act, of a service agreement between Continental and Rio Airways, under which Rio would provide four daily round trips over the suspended portion of segment 3. Finally, pursuant to section 416(b) of the Act, Continental requests that Rio be granted exemption authority from the provisions of section 401 of the Act and Part 298 of the Economic Regulations to the extent required to permit it to engage in the transportation of mail as contemplated in the service agreement.

In support of its application, Continental alleges, *inter alia*, that: within the confines of its severely prescribed authority, it has attempted to maximize traffic development over the route, but without success;[2] much needed traffic support for Continental's multistop schedule is not available; [3] actual losses for the first 10 months of 1975 on the Midland-Tulsa services over segment 3 exceeded $1.5 million; and to insure that the segment 3 route would receive a sufficient level of service to accommodate demand, Continental has agreed to underwrite a four-daily-round-trip service pattern by Rio [4] which is designed to serve the intermediate markets on segment 3 and also provide better connections at all of the points situated on this segment. Moreover, the carrier states that the resulting agreement between Continental and Rio is a 5-year experiment to determine whether the segment 3 route can be served more effectively and efficiently with small aircraft better suited to the traffic moving over the route; and that approval of the substitute service agreement will (a) provide the public with more responsive service in the local markets and significantly improve connecting opportunities, (b) enable Continental to reduce its losses, and (c) save 1.7 million gallons of fuel per year. Finally, Continental states that it is requesting permission to suspend its entire Tulsa-Midland operation over segment 3 rather than merely suspend service at Lawton/Fort Sill and Wichita Falls because (1) the continuation of its flights 290 and 291 overflying the two points would result in a projected loss of $800,000 and (2) if Continental were to maintain service on the segment without serving the two points, Rio's service would never have a chance of becoming successful.[5]

[1] Segment 3 extends between the terminal point Tulsa, Okla., the intermediate points Oklahoma City and Lawton/Fort Sill, Okla., Wichita Falls and Lubbock, Tex., and (a) beyond Lubbock, the intermediate point Midland-Odessa, Tex., and the terminal point El Paso, Tex., and (b) beyond Lubbock, the terminal point Albuquerque, N. Mex. At the present time, however, the flights over segment 3 which Continental intends to terminate originate at Midland/Odessa and terminate at Tulsa (and vice versa), extending neither to Albuquerque nor to El Paso. Consequently, Continental only needs authority to suspend the Midland/Odessa-Tulsa portion of segment 3 to effectuate its proposal. The carrier's request entails a suspension of its entire operations at Lawton/Fort Sill and Wichita Falls, inasmuch as Continental only authority at these two points is on segment 3.

[2] Continental states that the operational difficulties inherent in a six-point segment are compounded by its certificate restriction (5) which prohibits it from using Kansas City traffic for support without also operating the flight through to Albuquerque or El Paso.

[3] The carrier indicates that the Dallas/Fort Worth gateway attracts a significant portion of the local traffic moving between Lubbock and Midland/Odessa, on the one hand, and Tulsa and Oklahoma City, on the other. Also, Continental's single round-trip multistop service is not significantly used by Midland/Odessa, Lubbock, Wichita Falls, Oklahoma City, or Tulsa for connections to beyond markets.

[4] In return for the service substitution, Continental will guarantee Rio $95,000 net profit each year for the 5-year term of the agreement. Continental will also guarantee the repurchase of the two Beech 99 aircraft which Rio will obtain for this substitute service.

[5] Continental estimates that overflight service by it would deprive Rio of approximately $742,000 of the $1.5 million in passenger revenue it expects to generate with its services.

Answers to Continental's application have been filed by numerous parties. The City of Wichita Falls [6] and the City of Tulsa [7] support the request. The Texas Aeronautics Commission supports the arrangement subject to certain joint-fare conditions. The Lubbock Chamber of Commerce Civic Parties, the Midland/Odessa Parties (Midland),[8] the Air Line Pilots Association (ALPA), Trinity Airways, and Frontier Airlines oppose the application and request a hearing.

Specifically, Midland contends that Continental proposes to suspend without hearing and replace trunkline service over a 537-mile linear route with a subsidized Beech 99 operation conducted by an uncertificated air taxi operator; that Midland-Oklahoma City/Tulsa traffic, strangled by Continental's service neglect, has stagnated at levels achieved two decades ago; that Midland is one of the major oil producing areas in the world,[9] and the need for air service between Midland and Oklahoma points has been magnified in recent years by the energy crisis; that traffic volume over segment 3 is much too great to be handled by 15-passenger Beech 99 flights; that expedited services over segment 3 without stops at Lawton/Fort Sill and Wichita Falls would produce a profit; and that in two major investigations held in 1963 and 1969 involving service over segment 3, Continental blocked awards to other carriers by urging that it wanted to continue serving the points and would provide good schedules.

ALPA contends that a favorable decision could have long-range effects of major consequence on the service of trunks to unprofitable and marginal points. Trinity, an air taxi operator providing service in the Lawton/Fort Sill-Oklahoma City/Dallas/Fort Worth markets, believes that the proposed agreement between Continental and Rio would result in unfair and unreasonable competition to Trinity and others as a result of the substantial subsidy Rio would receive from Continental. Frontier is concerned about the proposed service between Lawton/Fort Sill and Oklahoma City, a market Frontier serves on a subsidized basis. The carrier is further concerned with the possibility that Rio might provide Lawton/Fort Sill-Dallas/Fort Worth service, also in competition with Frontier. The carrier does not believe that the Board should permit Continental to subsidize Rio's services in order to facilitate its providing competitive service in either market.

Continental filed a reply to Midland's answer,[10] stating that it does not believe that a hearing on its application would accomplish any meaningful objective, particularly if it is folded into a broad-scale Midland/Odessa service investigation in which the question of service to Lawton/Fort Sill and Wichita Falls would be submerged. Continental feels that the substitute service agreement is the only apparent workable solution to the problem of provding economical and efficient service over the multistop route.[11]

Upon consideration of the pleadings and all the relevant facts, we have decided to set Continental's application for hearing. In view of the conflicting contentions of the parties, we find that the disputed facts and issues can best be resolved on the basis of an evidentiary record after hearing. We note that there are controversial issues involved here which are not usually presented in more limited suspension/replacement arrangements. Specifically, Continental's application involves the unusual issue of whether a suspension/replacement arrangement between a trunkline carrier and a commuter carrier should be approved and the issue of permitting Continental to subsidize Rio's services, some of which would directly compete with federally subsidized services.

The issues to be considered at the hearing should include the following: (a) whether Continental's authority to serve the Midland/Odessa-Tulsa portion of segment 3 [12] of route 29 should be suspended or deleted; (b) what conditions, if any, should be attached to any suspension which may be found to be required (including a requirement for air taxi replacement service); and (c) whether Agreement CAB 25762 should be approved and, if so, what conditions, if any, should be attached to such approval.

Finally, Continental has not submitted sufficient information for us to determine the environmental consequences of the proposed suspension/replacement at this time. Therefore, we will require the carrier to file the information set forth in Part 312 of the Board's Procedural Regulations within 25 days of the date of adoption of this order.

Accordingly, *it is ordered*, That:

1. The application of Continental Air Lines, Inc., in docket 28744, be and it hereby is set down for hearing before an administrative law judge of the Board at a time and place hereinafter designated, as the orderly administration of the Board's docket permits;

2. The proceeding instituted in paragraph 1, above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require that the authority of Continental Air Lines, Inc., to serve the Midland/Odessa-Tulsa portion of segment 3 of route 29 [13] be suspended or deleted? If so, what conditions, if any, should be attached to any suspension found to be required?

(b) Should Agreement CAB 25762 between Continental Air Lines, Inc., and Rio Airways, Inc., be approved and, if so, what conditions, if any, should be attached to such approval?

3. The motions of Continental Air Lines, Inc., and the City of Tulsa for leave to file late-filed documents be and they hereby are granted;

4. Petitions for reconsideration of this order shall be filed 20 days from the date of adoption of this order, and answers thereto shall be filed 10 days thereafter;

5. Continental Air Lines, Inc., shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 25 days of this order;

6. Frontier Airlines, Trinity Airways, the City of Midland, the Midland Chamber of Commerce, the City of Odessa, the Odessa Chamber of Commerce, the City of Lubbock, the Tulsa Chamber of Commerce Civic Parties, the City of Wichita Falls, the Texas Aeronautics Commission, and the Air Line Pilots Association be and they hereby are made parties to docket 28744; and

7. A copy of this order shall be served upon persons listed in Continental's certificate of service in docket 28744 and the following: Mayor, City of El Paso; Mayor, City of Albuquerque; Airport Manager, El Paso International Airport; Airport Manager, Albuquerque International Airport; the El Paso Chamber of Commerce; and the Albuquerque Chamber of Commerce.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-15854 Filed 5-28-76;8:45 am]

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[6] Lawton/Fort Sill, the second point on segment 3 at which Continental's entire services would be suspended, did not respond to the application.

[7] The answer filed by Tulsa was accompanied by a motion to file a late-filed document. We will grant the motion.

[8] Cities and Chambers of Commerce of Midland and Odessa, Tex.

[9] Midland states that the Permian Basin contains 11 percent of the world's oil reserves and 25 percent of the United States' oil reserves and generates over 50 percent of the petroleum production of Texas.

[10] The reply was accompanied by a motion for leave to file an otherwise unauthorized document. Since replies are authorized pursuant to sec. 205.4 of the Economic Regulations, we will grant Continental leave to file a late-filed reply. The reply, which would have been due Mar. 3, 1976, was actually filed on Mar. 26, 1976.

[11] Continental states that if the matter is set for hearing, the carrier will promptly file a petition under sec. 401 of the Act for amendment of segment 3 to retain only the El Paso/Albuquerque-Oklahoma City/Tulsa portion of the authority.

[12] The affected portion of segment 3 would be as follows: the terminal point Tulsa, the intermediate points Oklahoma City, Lawton/Fort Sill, Wichita Falls, and Lubbock, and beyond Lubbock, the intermediate point Midland/Odessa. Thus, two markets—Albuquerque-Lubbock and Midland/Odessa-El Paso—would not be at issue in the proceeding.

[13] See n. 12, *supra*.

[Docket 28732; Order 76-5-114]

JUGOSLOVENSKI AEROTRANSPORT

Foreign Air Carrier Permit; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of May 1976.

On January 7, 1976, Jugoslovenski Aerotransport (JAT) filed in Docket 26078 an application for amendment by show-cause of its foreign air carrier permit issued pursuant to Order 70-6-118 (approved June 19, 1970), as amended by

Order 74–9–23 (approved September 5, 1974). JAT presently is authorized to engage in charter foreign air transportation of persons and property between Yugoslavia and the United States. It seeks authority to operate, temporarily, scheduled air service between the coterminal points Belgrade, Yugoslavia/Zagreb, Yugoslavia and New York City, New York, and New York City-Zagreb/Belgrade and requests that the permit be effective as soon as possible and terminate on March 31, 1977, or at such earlier date as the Governments of the United States and Yugoslavia may provide for by agreement.

Pan American World Airways filed an answer on January 16, 1976, opposing action on JAT's application by show cause order but it is the Board's understanding that the objection has been withdrawn. No other answers have been filed.

JAT incorporates by reference its prior exhibits [1] in Dockets 25581 and 26078 in which JAT was issued a renewed and amended permit pursuant to Order 74–9–23. The Board, at that time, found that JAT was substantially owned and effectively controlled by citizens of Yugoslavia, that it was financially and operationally fit, and that it was in the public interest to renew and amend JAT's certificate. JAT states in its application in Docket 28732 that there have been no changes in its structure or operations to require modification of any information in these exhibits. Furthermore, JAT states in its application that Pan American has the authority from the Government of Yugoslavia to operate scheduled air service between the United States and Belgrade, Yugoslavia, via intermediate points and will offer such scheduled service commencing May 20, 1976. Finally, the authority requested by JAT conforms to the exchange of notes between the Governments of the United States and Yugoslavia of May 14, 1976, regarding scheduled air service.[2]

The Board finds that it is in the public interest to direct interested persons to show cause why the applicant should not be issued a foreign air carrier permit without a hearing authorizing JAT to engage in scheduled air service. Therefore, it is tentatively found and concluded that:

(a) Jugoslovenski Aerotransport is fit, willing and able properly to perform the foreign air transportation authorized by the specimen permit attached hereto and to conform to the provisions of the Act and the rules, regulations and requirements of the Board thereunder;

(b) Jugoslovenski Aerotransport is substantially owned and effectively controlled by citizens of Yugoslavia;

(c) It is in the public interest to issue a foreign air carrier permit to Jugoslovenski Aerotransport to authorize scheduled air service for a period terminating March 31, 1977 or such earlier date as the Governments of the United States and Yugoslavia may provide by agreement; [3]

(d) The public interest requires that the exercise of the privileges granted by said permit be subject to the terms, conditions and limitations contained in the specimen permit attached hereto [4] 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; and

(e) A hearing on the application of Jugoslovenski Aerotransport is not required in the public interest.

All interested persons will be given 15 days following the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analyses. If an evidentiary hearing is requested, each objector should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, That:

1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions herein and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, (a) issuing a foreign air carrier permit to Jugoslovenski Aerotransport in the specimen form attached hereto, and (b) limiting the authority granted to Jugoslovenski Aerotransport under its permit issued pursuant to Order 74–9–23 (approved September 5, 1974) to operate no more than 80 revenue charter aircraft movements to or from the United States during the 12-month period expiring March 31, 1977, unless prior approval to operate a specific higher number of revenue charter aircraft movements is obtained from the Board;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions herein or to the issuance of the proposed renewed foreign air carrier permit shall, within 15 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections hereto are filed, full consideration will be accorded the matters or issues raised therein 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; [5]

4. In the event no objections are filed to this order, 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 findings and conclusions herein; and

5. This order shall be served upon Jugoslovenski Aerotransport, Pan American World Airways, Inc., the Ambassador of the Socialist Federal Republic of Yugoslavia, and the Department of State.

This order shall be published in the FEDERAL REGISTER and transmitted to the President.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

PERMIT TO FOREIGN AIR CARRIER; SPECIMEN

Jugoslovenski Aerotransport is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations issued thereunder, to engage in foreign air transportation (except charter air transportation) with respect to persons, property and mail, as follows:

Between the coterminal points Belgrade and Zagreb, Yugoslavia; and the terminal point New York City, New York.

This permit shall be subject to the following terms, conditions, and limitations:

(1) The holder will appoint Pan American World Airways, Inc., as its general sales agent in the United States and airport ground handling agent at New York. Sales of scheduled air transportation by JAT in the United States for carriage on JAT's direct services between the United States and Yugoslavia and on its other services between the United States and Yugoslavia operating via Frankfurt where JAT is the carrier on any portion of the journey may be made by JAT directly using Pan American transportation documents, and in its discretion, through its agents using Pan American transportation documents. All other sales of scheduled air transportation by JAT in the United States will be made through Pan American using

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[1] See Exhibits (JAT) Nos. T–1, 103, 104, 200, 201, 309, and supplementary exhibits nos. 304 A–1, 304 A–2, and 308–A.

[2] The exchange of notes serves as a provisional arrangement because the Yugoslav Government desired an early initiation of scheduled air service and it was not possible to conclude a full air transport agreement in the time available.

[3] The authority granted herein is not one relating to an activity of a continuing nature as that term is used in 5 U.S.C. 558(c). Accordingly, the automatic extension privileges of 5 U.S.C. 558(c) will not be applicable.

[4] We have included the initial tariff condition which the Board has recently included in permits of foreign carriers. The condition permits the Board to deal with such initial tariffs as to which Board suspension power is more limited under the recent amendments to the Federal Aviation Act authorizing the Board generally to suspend fares in foreign air transportation. (P.L. 92–259, March 22, 1972.)

[5] Since provisions is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

Pan American transportation documents. Any such general sales agency and airport ground handling arrangement shall be immediately reduced to writing and filed with the Board for approval, subject to such conditions as may be required in the public interest.

(2) Except as the Board may otherwise provide, with or without hearing, by prior authorization, the holder shall not operate over the described route more than two B-707 round-trip frequencies per week in scheduled service. Requests by the holder for approval of additional frequencies shall be made by filing the proposed schedule through diplomatic channels at least 45 days before its proposed effective date and requests for extra sections will be made by filing through diplomatic channels at least 30 days before the proposed date of operation.

The holder shall not commence service authorized herein except pursuant to an initial tariff setting forth rates, fares and charges no lower than rates, fares or charges that are then in effect for any U.S. air carrier engaged in the same foreign air transportation.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Socialist Federal Republic of Yugoslavia international air service.

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 the Socialist Federal Republic of Yugoslavia shall be parties.

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 holder shall keep on deposit with the Board a signed counterpart of CAB 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 of 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 CAB 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.

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 _____ and shall terminate on March 31, 1977, or such earlier date as the Governments of the United States and Yugoslavia may provide by agreement.[1]

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 to be affixed hereto, on the _____.

By the Civil Aeronautics Board.

[SEAL] _____
Acting Secretary.

Issuance of this permit to the holder approved by the President of the Untied States on _____ in Order _____.

[FR Doc.76-15852 Filed 5-28-76;8:45 am]

[Dockets 28683, 28684, 28685; Order 76-5-129]

NORTHWEST AIRLINES, INC.

Transpacific Cargo Rates; Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By Order 76-3-111, March 16, 1976, the Board rejected tariff revisions filed by Northwest Airlines, Inc. (Northwest), proposing a new cargo rate structure for North/Central Pacific traffic. Northwest proposed to cancel all specific commodity rates, although it stated it was in the process of developing "genuinely promotional" commodity rates for later filing increase minimum charges; and reduce general cargo container rates to establish a rate incentive for high-density traffic.[1] The Board found Northwest's tariff justification to be deficient in that it was impossible to properly evaluate Northwest's forecast of traffic distribution and revenues under the new rates; and that the carirer's forecast of operating expenses and investment did not meet minimum standards of economic documentation and support. The Board stated, in summary, that while it encouraged Northwest's move toward a more rational, cost-related structure of Pacific rates applicable to all commodities, it was nevertheless compelled to reject the proposed rates due to the demonstrated shortcomings of Northwest's justification.

Northwest has now petitioned the Board for reconsideration of its order of rejection. Answers opposing the petition have been submitted by Pan American World Airways, Inc. (Pan American) and jointly by China Airlines, Ltd. (CAL), The Flying Tiger Line Inc. (Tiger), Japan Air Lines Company, Ltd. (JAL), and Philippine Air Lines, Inc. (PAL).[2] An answer supporting Northwest's petition has been filed by General Instrument Corporation (GIC).

In support of its petition, Northwest alleges that the Board has based its rejection on invalid assumptions, or misinformation furnished by complainants; that its forecast maintenance expenses for B-747F aircraft, which the Board stated appeared to be understated, are correct and cannot properly be compared to maintenance costs of other carriers such as Tiger, because Northwest's B-747F planes are new all-cargo aircraft while Tiger's B-747F planes are converted combination aircraft;[3] that the Board's expressed doubts whether any revenue improvement would be achieved under Northwest's proposal are faulty, because virtually all Hong Kong/Taipei-U.S. traffic presently moves under specific commodity rates for Item 9902, which would experience yield increases at all densities under Northwest's proposed rates, or Item 2211 which moves only at low densities where it also would experience increases under Northwest's rates;[4] that the Board's criticism of Northwest's forecast 20 percent increase in specific commodity traffic is invalid since the historical and forecast periods were separated by six months and thus the forecast is very realistic; and that the Board's comments relating to the competitive effects of Northwest's proposal do not demonstrate any shortcoming in Northwest's justification, since the proposal was put forth on its own merits.

Pan American, in opposition to Northwest's petition, asserts that the petitioner has raised nothing which would suggest any proper basis for the Board to reconsider its rejection of Northwest's tariff; that even if Northwest's forecast B-747F maintenance expenses were based on six rather than two weeks' experience, it would not alter the Board's finding that the forecast fails to meet minimum standards; that Northwest overlooks the facts that rates must be set on the basis of industry average costs; that Northwest's arguments in reference to traffic from Taipei/Hong Kong is not responsive to the Board's finding of considerable doubt whether Northwest's proposal would achieve any revenue improvement; and that Northwest has yet to explain how it could achieve increased yields and increased traffic simultaneously.

The Joint Carriers submit that while Northwest has focused on three areas of Order 76-3-111 to support its petition, it has completely ignored the other shortcomings listed by the Board; that a forecast of maintenance expenses based

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[1] The authority granted herein is not one relating to an activity of a continuing nature as that term is used in 5 U.S.C. 558(c). Accordingly, the automatic extension privileges of 5 U.S.C. 558(c) will not be applicable.

[1] The tariffs were originally filed for effectiveness January 15, 1976, but were later postponed to May 15, 1976 due to apparent reservations on the part of various foreign governments.

[2] Hereinafter referred to as the "Joint Carriers." Pan American and the Joint Carriers filed complaints against the original Northwest tariff filing.

[3] Northwest also asserts that while the Board stated Northwest's forecast B-747F maintenance expenses were based on only two weeks of operations, they were actually based on six weeks' experience.

[4] In Order 76-3-111 the Board stated that the data submitted indicated that high-density traffic would divert to Northwest's container rates at reduced yields while low-density traffic would continue to move on existing specific commodity rates (SCR's).

on six weeks' experience is perhaps better than one based on two weeks', but does not alter the validity of the Board's conclusions; that if Northwest's B–747F maintenance expenses differ from Tiger's they should still be comparable to those of JAL which is also operating new B–747F equipment, and has experienced maintenance costs of $1.518 per revenue aircraft-mile compared to Northwest's forecast of 21.96 cents; that although Northwest alleges that Item 2211 (Yarn, Thread and/or Fibers, etc.) specific commodity traffic from Taipei/Hong Kong does not achieve densities such that Northwest's rates would undercut existing rates, the petitioner has not supplied any specific information as to the actual densities of this traffic, and the Joint Carriers' experience is that this traffic is sufficiently dense to permit present rates to be undercut by Northwest's proposed rates; that the Board correctly concluded that low-density traffic would continue to move on SCR rates which are lower than Northwest's rates, and were the Board to approve Northwest's rates, the IATA carriers could well withdraw a pending agreement to increase the relevant SCR rates; and that the Board's Economic Regulations, which obligate carriers to support tariff proposals with certain economic data deemed essential to a proper evaluation, obviously require more than a pro forma submission, and this requirement would have been rendered meaningless were the Board to have overlooked the severe shortcomings of Northwest's justification.

GIC, which in a separate case has urged the Board to disapprove an IATA agreement which includes increases in specific commodity rates for electronic parts, alleges that if the Board approves those increases, it should also approve the Northwest rates. GIC further contends, in support of Northwest, that while Northwest's rates are, allegedly, somewhat higher than existing rates for high-density traffic, they are much lower than the electronic commodity rates proposed by IATA, and are fully justified for high-density traffic such as the parts shipped by GIC; that the Board's Chairman has testified before the U.S. Senate Aviation Subcommittee in favor of more reliance on competitive market forces in regulation of domestic transportation and GIC sees no reason to follow a different policy internationally or why Northwest should not be permitted to undercut the rates established by the IATA "cartel"; that by the technique of rejecting Northwest's filing for technical noncompilance with the Board's Regulations when the real reason was, allegedly, disagreement with the substance of the carrier's justification, the Board has circumvented the statutory safeguards of the Act, which empowers the Board to suspend tariffs only pending investigation and subject to Presidential approval, and thus the Board has deprived Northwest and GIC of important legal rights.

After careful review of Northwest's petition and the answers thereto, the Board has concluded that the petition does not set forth facts sufficient to warrant reconsideration of the Board's action in Order 76–3–111 and it will, therefore, be denied. We would first point out that Northwest's original justification for its tariff filing omitted data specifically required by the Board's Economic Regulations setting forth the requirements for tariff justifications, i.e., data showing present and proposed rates per mile or revenue ton-mile, as well as the effect of the proposal on the carrier's traffic. The tariff revisions could have been rejected outright on this basis alone. As indicated in Order 76–3–111, however, the Board was encouraged by Northwest's move toward a rational, more cost-related structure of Pacific rates applicable to all commodities in place of the present reliance on a discriminatory pattern of specific commodity rates, and accordingly requested Northwest to submit the additional required data on yields, traffic and revenue distribution by rate category so that a proper evaluation could be made of Northwest's proposal.

The additional data, however, did not permit a proper evaluation of the filing. The Board's order pointed out that Northwest's revenue and traffic distribution forecast showed a yield improvement from 25.04 to 29.71 cents per revenue ton-mile (rtm), but left unclear just how such an improvement was to be accomplished. For example, specific commodity rate yield was forecast to increase from 25.93 to 37.36 cents per rtm in conjunction with a 20 percent traffic increase, but Northwest's proposed rate structure included no specific commodity rates; and container rate yield was forecast to increase from 20.97 to 24.65 cents per rtm although, as explained above, the only traffic moving on the new container rates would be high density goods at a yield reduced from present levels. The justification contained other anomalies which made it impossible to determine whether the proposed structure would in fact achieve Northwest's stated objectives.

Northwest's petition contains no new material which would cause the Board to alter its conclusions in Order 76–3–111. Northwest has focused only on the issues of B–747F maintenance costs, Hong Kong/Taipei-U.S. traffic on SCR Items 2211 and 9902,[5] and its SCR traffic forecast, but has not responded to the deficiencies with respect to noncapacity costs, investment, and density figures noted in Order 76–3–111. Regarding B–747F maintenance costs, while it is true that the text of Northwest's justification states that forecast B–747F expenses were based on July/August 1975 experience (i.e., six weeks), Attachment II setting forth the actual cost figures indicates that the period January–July 1975 was used (i.e., two weeks, since this equipment began service only in late July 1975).[6] With respect to SRC traffic from Hong Kong/Taipei, which Northwest contends would experience yield improvements under its proposal, although it is true that Northwest's proposed rates are higher than existing Item 9902 rates at all densities, Northwest's petition leaves unexplained how, considering the continued existence of lower SRC's for this item, Northwest's proposed rates could attract traffic at higher yields. Regarding Northwest's argument that Item 2211 traffic would not achieve densities where the proposed rates represent a yield reduction, this is a mere allegation completely unsupported by actual density figures or any other facts, and moreover is inconsistent with Northwest's stated objective in its original justification of increasing traffic density to the greatest extent possible.[7] As to Northwest's contentions about the validity of its SCR traffic forecast, the Board cannot accept a forecast of traffic or revenue under rates which are not included in a carrier's tariff.

Concerning the comments of GIC and Airborne, these parties are aware that the Board has consistently supported the same objectives alleged by Northwest to have inspired its filing, objectives in which both GIC and Airborne appear to concur, i.e., the development of a cost-related structure of general commodity rates to replace the present, outmoded system of specific commodity rates. Order 76–3–111 made clear the Board's support for Northwest's efforts in this direction. However, the carrier's justification left too many questions unanswered and the Board was unable to make a proper evaluation of the proposed rates. We cannot agree with GIC that anyone in this case has been denied "important legal rights" because the Board did not suspend the rates.[8] The Board clearly did not make a substantive judgements on the merits of the proposal, as indicated above and in Order 76–3–111. GIC seems to have the impression that the Board's rejection of the filing has permanently foreclosed Northwest's proposal. On the contrary, Order 76–3–111 clearly left the door open for Northwest to review its proposal and justification with a view toward resubmission in light of the Board's comments and the competitive situation at the time.

Accordingly, *It is ordered*, That:

The petition of Northwest Airlines, Inc. for reconsideration of Order 76–3–111 be and hereby is denied.

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[5] Item 9902 is a "basket" classification covering many diverse commodities.

[6] In any event, neither two nor six weeks' experience with new aircraft just introduced into service is adequate justification for a forecast of maintenance expenses.

[7] Further, traffic from Hong Kong/Taipei represents only two eastbound segments of a large market.

[8] We would note that GIC did not file any comments in support of Northwest's tariff filing, and their answer in support of Northwest's petition is the first indication that they had any interest in the case.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-15855 Filed 5-28-76;8:45 am]

[Docket 21162; Order 76-5-121]

OHIO/INDIANA POINTS NONSTOP SERVICE INVESTIGATION

Order Granting Consolidation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of May, 1976.

Western Air Lines, Inc., has filed a timely motion to consolidate its application, Docket 28951, with the Ohio/Indiana Points Nonstop Service Investigation, Docket 21162. Western's application conforms to the issues in the instant proceeding and meets the criteria for consolidation set forth in Rule 12 of the Board's Rules of Practice. Thus, consolidation of Western's application with the instant investigation will be conducive to the dispatch of the Board's business and to the ends of justice, and will not unduly delay the proceeding.

Accordingly, *it is ordered:*

That the application of Western Air Lines, Inc., Docket 28951, be and it hereby is consolidated for hearing and decision with the Ohio/Indiana Points Nonstop Service Investigation, Docket 21162.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-15851 Filed 5-28-76;8:45 am]

[Docket 29143; Order 76-5-119]

OLYMPIC AIRWAYS, S.A.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of May, 1976.

By tariff revisions [1] marked to become effective May 14, 1976, Olympic Airways, S.A. (Olympic) implemented, pursuant to order of the Government of Greece, an increase in the level of previously effective affinity and nonaffinity group fares between North America and Greece by $12, and decreased the advance payment and ticketing-time limits from fifteen days to five days prior to commencement of travel.

A complaint has been filed by Trans World Airlines, Inc. (TWA) which requests that the Board suspend Olympic's entire nonaffinity group fare tariff, as well as the change in the advance payment and ticketing requirement as it would apply to the affinity-group fares. TWA cites its initial complaint (Docket 24853), filed in the latter part of 1972, which requested suspension of Olympic's original tariff, filed to implement the nonaffinity-group fare ordered by the Greek Government, because of its concern that the fares were uneconomic and would induce comparable action by other governments and their national carriers. TWA alleges that the Board has not acted on its prior complaint,[2] and contends that intervening experience clearly bears out their prediction that the fares are uneconomic and have generated reactive responses by other foreign governments and carriers. Accordingly, it is argued that the Board should suspend the nonaffinity-group fares not only to improve the economics of operations between the United States and Greece, but also to stem motivation for introduction of similar fares to other countries.[3]

TWA alleges that its experience in the U.S.-Greece market provides a clear indication as to the diseconomy of the nonaffinity fare to date, citing the fact that almost 30 percent of its total traffic has used either the affinity or nonaffinity-group fares, clearly diverting traffic from higher economy-class fares. If nonaffinity-group fares comparable to those to Greece were to be implemented generally, the redistribution of traffic would result in a reduction in revenue of $23.5 million over the Atlantic. TWA estimates that with continuation of open commission rates, the impact would be upwards of $34.5 million annually. Finally, TWA argues that it favors economically and soundly based low fares for scheduled service and, to this end, has supported APEX fares which are designed by their restrictions to be financially beneficial to the carriers. On the other hand, the minimal restrictions applicable to the nonaffinity-group fares are allegedly simply not sufficient to prevent uneconomic and unjustified revenue dilution.

In response Olympic alleges that, since introduction of the nonaffinity fare, four years ago, its level has been increased 90 percent, while existing IATA fares were increased by no more than 35 percent; that the nonaffinity-group fare is $12 higher than the IATA-agreed APEX fare; and that there can be no valid comparison between the fare ordered by Portugal and the fare to Greece because of a significant difference in level. The fare to Greece is alleged to bear an historical relationship between Athens and other Middle East points, and the change in the rules governing advance payment and ticketing is the result of recent similar changes in the rules governing Israel group fares. Elimination of the affinity-group fares would, it is contended, force passengers to the APEX fare or to charter services, each of which produces a lower yield and since the Canadian Government has approved the Greek Government order, diversion through Canada could result if the proposed fares were not correspondingly available from the United States. Finally, Olympic contends that the issue of commission rates is irrelevant.

Upon consideration of the complaint and answer thereto, we have decided to permit Olympic's tariffs to remain in effect for this season. The levels of the affinity- and nonaffinity-group fares, although slightly increased, are admittedly marginal, although somewhat higher than the U.S.-Greece APEX fares agreed to by IATA (including the complainant TWA) and approved by the Board (Order 76-4-175). The peak season New York-Athens APEX fare, which has been approved by the Board is $598, as compared with the affinity- and nonaffinity-group fares of $600 and $610, respectively. Moreover, we cannot ignore the fact that the fares, ordered by the Government of Greece, have been a part of the fare structure for several years. In these circumstances, and recognizing that we are approaching the threshold of this summer's peak travel season, the Board is most reluctant to take any action which might be disruptive, accepting the practicable assumption that many travelers have already booked on these fares.

Despite our dismissal of TWA's complaint in these particular circumstances, we nevertheless again continue to stress the opinion that such substantially reduced fares for groups of only 10 passengers, subject only to the minimal restriction of a 5-day advance ticketing and payment requirement, cannot be considered an appropriate fare for scheduled service, notwithstanding that the yield remains somewhat higher than that received from charter service.

The Board is not unaware of or, indeed, unsympathetic to the carriers' desire for a charter-competitive fare on scheduled service. We would not oppose one which is carefully delineated to achieve this marketing objective while, at the same time, preserving the economic integrity of scheduled service. It is axiomatic, however, that seat-mile cost on a charter flight permits lower fares than can be sustained on scheduled service, because of the inherent difference in average load factor. During recent years, the Board and various European authorities have fostered the development of charter service in the interest of providing low-cost travel for a broad spectrum of the public. Carriers authorized to provide scheduled service can and do compete by also operating charters. However, they continue to press for a fare on scheduled service which approaches charter levels. The Board does not oppose such a fare per se. It does, however, object to the de facto cross-subsidization of very low promotional fares by prices charged for economy and other higher-rated classes of service. As indicated recently (Order 76-4-175), the Board does not intend to further countenance such a burden on economy-class travelers.

[1] Rule 222 on 7th Revised Pages 70-A and 70-B, and Table 305 on 23rd Revised Page 260 to Passenger Fares Tariff No. PF-4, C.A.B. No. 44, issued by Air Tariffs Corporation, Agent.

[2] In fact, by Order 73-2-104 dated February 14, 1973 the Board dismissed the complaint in Docket 24853.

[3] TWA cites a recent tariff filing by Transportes Aereos Portugueses S.A.R.L. (TAP) suspended by the Board by Order 76-4-143 April 16, 1976.

The IATA carriers are currently attempting to agree on a charter-competitive promotional fare which will accommodate the varied perceptions by each carrier of its own particular marketing needs. A number of carriers have proposed nonaffinity-group fares, at charter prices and with substantially charter conditions. Others, one of them being TWA, press for a version of APEX. TWA, in effect, argues that the advance-purchase excursion fare is the answer to charter competition, citing the fact that APEX is a capacity-controlled fare, sold on an individual basis. On the other hand, group fares are usually formed by agents or tour operators which, TWA suggests, adds to the cost of service and further dilutes the revenues of the direct carriers.[4]

The Board has historically preferred promotional fares which are offered on an individual basis, for a number of reasons. Experience has indicated that the conditions on affinity-group fares, for example, have not always been honored, and that the carriers have not always received the tariff fares for transportation of groups formed by tour operators or other third-party assemblers. Perhaps more circumspect adherence to group-fare tariff conditions can be expected by virtue of the sanctions now available pursuant to the order of the New York District Court.[5]

Nevertheless, even with efficacious enforcement of tariff conditions and full collection of fares, a charter-competitive fare must stand on its own economically. This would seem to require an effective capacity-control mechanism, lest the fare downgrade the quality of service that higher-fare paying passengers rightfully should expect. If higher-priced fares will no longer subsidize charter-competitive fares set at levels below fully allocated costs, capacity must be limited for the flight or the overall operation will not be profitable. An intelligent capacity-control mechanism would involve judicious allocation of space, related closely to lower load-factor flights, rather than an automatic allocation of the permissible maximum space for sale at such fares.

In summary, we are not unsympathetic to the establishment of a low promotional fare to compete with charters. However, the price must reflect the economics of scheduled service; the applicable conditions must be significantly and appropriately restrictive; and the fare should be directed to individuals rather than group travel so as to eliminate the obvious abuses which have long been generally associated with the latter.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

The complaint in Docket 29143 is hereby dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-15853 Filed 5-28-76;8:45 am]

[Docket No. 28036]

SOUTH PACIFIC SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 30, 1976, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., May 24, 1976.

ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.76-15850 Filed 5-28-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 515-3; FIFRA Docket Nos. 246, et al.]

CHAPMAN CHEMICAL CO., ET AL.

Consolidated Mercury Cancellation Hearing

Correction

In FR Doc. 76-10932 appearing at page 16497 in the FEDERAL REGISTER of Monday, April 19, 1976 the following corrections should be made:

1. On page 16498, third column, second paragraph, after the last word "Conclusions" insert a colon.

2. On page 16499 several words should have been italicized:

(a) First column, sixth full paragraph, third line, the word "any".

(b) First column, seventh full paragraph, second line, the word "any".

(c) Second column, third line from the top, the word "some".

(d) Second column, section C, the second paragraph, fourth and fifth lines, the words "only if there are no substitutes for it".

(e) Second column, section C, third paragraph, second line from the bottom, the word "need".

(f) Second column, section C, fifth paragraph, second line, the word "solely".

(g) Third column, third and fifth lines, the words "pivotal" and "sole".

(h) Third column, section E, third paragraph, first line, the word "some".

(i) Third column, section E, fourth paragraph, second and fifth lines, the words "above" and "below".

3. On page 16500, several words should have been italicized:

(a) First column, first paragraph, fourth line from bottom, the word "not".

(b) First column, second paragraph, first and seventh lines, the words "some" and "met".

(c) First column, last paragraph, tenth line from the bottom, the word "increased".

4. On page 16501, first column, in footnote 25, ninth line, the word "Plants" should read "Paints".

5. On page 16501, second column, paragraph B, last line, the words "per se" should be italicized.

6. On page 16503, second column, fourth full paragraph, thirteenth and twentieth lines, italicize "under limited winter snowfall" and "are".

7. On page 16506, first column, first five lines at top should be transferred to page 16508 at the top of the first column.

8. On page 16506, second column, between the paragraph which begins "The use of methylmercury" and the one beginning "It is a most difficult task" insert five asterisks.

9. On page 16510 several words should have been italicized:

(a) Second column, seventh full paragraph, second and fifth lines, the words "under limited winter snowfall" and "mainstay of the substitutes".

(b) Third column, fourth full paragraph, eighth line from the bottom the word "can".

(c) Third column, last paragraph, eighth and ninth lines, the words "recovered" and "applied".

10. On page 16511, third column, second full paragraph, fourth line from the bottom, first word should read *"Alternaria"*.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-468, Docket No. 20814]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Instituting Investigation

In the Matter of American Telephone and Telegraph Company Charges for Private Line Services, Revisions of Tariff F.C.C. Nos. 260, 264 and 266, filed in Transmittal No. 12546 (Series 2000/3000); Charges for Private Line Services, Revisions of Tariff F.C.C. No. 260, filed in Transmittal No. 12547 (Series 5000).

By the Commission: Commissioner Hooks concurring in the result.

1. We here consider petitions for suspension and petitions for rejection of the above-captioned tariff filings.[1] The Series

[4] We are concerned with recent reports published in the trade press that, to compete for nonaffinity-group traffic to Greece, TWA intends to pay the retail agent $35 in addition to the customary 8½ percent commission.

[5] In our October 1975 fare policy statement, as well as in Order 76-4-175, the Board noted that the prime avenue of increased revenues in the North Atlantic market was strict adherence to tariff requirements.

[1] Petitions for Suspension of the revisions filed in Transmittal No. 12546 (Series 2000/3000) were filed by The Automotive Dismantlers and Recyclers of America, Inc. (ADRA); United Press International, Inc. (UPI); jointly by The American Newspaper Publishers Association, The Associated Press, Commodity News Service, Inc., Dow Jones & Company, Inc., Missouri Network, Inc., and Reuters, Ltd. (collectively "the Press Parties"); The Executive Agencies of the United States (The Executive Agencies); Southern Pacific Communications Company (SPCC); and jointly by, MCI Telecommunications, Inc., Microwave Communications, Inc., and N-Triple-C,

2000/3000 filing introduces American Telephone and Telegraph Company's (AT&T) Multi-Schedule Private Line (MPL) rate scheme; the Series 5000 filing applies the MPL rates to TELPAK single voice grade facilities, either two-point or sections of a multi-point service, 25 miles or less in length. These filings were made in response to our Decision and Memorandum Opinion and Order in Docket No. 19919 (Hi-Lo), 58 FCC 2d 362 (1976). That decision held that AT&T had failed to carry its burden of proof to establish the justness and reasonableness of the rates there at issue. Consequently, we found the Hi-Lo rates to be violative of §§ 201(b) and 202(a) of the Communications Act, 47 U.S.C. §§ 201(b), 202(a), and ordered AT&T to file a replacement tariff, on not less than 7 days notice, to become effective upon the effective date of that decision, 58 FCC 2d 362, 371. The decision was to become effective ninety days after publication in the FEDERAL REGISTER. In response to a petition the effective date of the decision was postponed to May 20, 1976, 113 days after its publication in the FEDERAL REGISTER, to allow the filing to be made on thirty days' notice. (FCC 76-293, released April 13, 1976.) [2]

2. Besides the general requirements of Section 61.38 of our Rules, 47 C.F.R. § 61.38, for the submission of data supporting the tariff filing, detailed guidelines were set out in paragraphs 74-75 of our Interim Decision in Docket No. 19919, 55 F.C.C. 2d 224, 246-248 (1975). These guidelines established the showing deemed requisite to justification of the rates AT&T chose to set forth in its replacement tariff. Realizing the effort required to compile all the necessary information within the time allowed for the filing of the replacement tariff, we stated that:

> Although AT&T must accompany its revised filing with its cost justification and as many of the supporting work papers and other material as can be put in proper form at that time * * * we are affording AT&T an additional 60 days to supplement its filing.

58 FCC 2d at 370. Consequently the results of AT&T's three-year projections of traffic, revenue and costs were not provided until May 14, 1976, and the following material will not be submitted until June 20, 1976, sixty days after the April filing:

1. 12 Month Retrospective Cost Study with Estimated Market Effects;
2. Cost of Service Study for 12 Month Retrospective Period Using Fully Distributed Cost Methods 2, 6 and 7;
3. Analysis of Costs by Rate Element for the 12 month Retrospective Period;
4. Sensitivity Studies;
5. Descriptions Explaining the Derivation and Use of Fully Distributed Cost Translators and Unit Investments;
6. Descriptions Explaining the Derivation and Use of Long Range Incremental Cost Translators and Unit Investments.

We here consider the matter, before submission of the June 20th material, because we wish to preserve the continuity of the charges by passing on the petitions for suspension before the tariff's May 20 effective date.

I. SERIES 2000/3000 (TRANSMITTAL NO. 12546)

A. DESCRIPTION OF THE FILING

3. The MPL rate structure is substantially different from the Hi-Lo plan. It is based on dividing all private line rate centers into two categories. "A" rate centers are, generally, those major terminal locations which are served by radio or coaxial facilities utilizing two mastergroups of a radio channel or coaxial tube pair arranged to derive voice grade channels, with local distribution facilities suitable for extending service to customer premises and linked by like interexchange facilities to other category A rate centers. All other rate centers are category "B" rate centers.

4. MPL contains three rate schedules: Schedule I applies to services between A rate centers and has the lowest rates per interexchange channel mile per state step; Schedule II applies to services between an A rate center and a B rate center; and Schedule III, which has the highest rates per interexchange channel mile per rate step, applies to services between B rate centers. Unlike the Hi-Lo rate scheme, under MPL only one rate schedule can apply between any pair of service points. The Hi-Lo plan requires the customer to specify the routing of the service, naming the various communications links to be used to make up his point-to-point service. The charge for the circuit could vary depending on the route chosen. MPL, however, adopts a point-to-point pricing approach which applies one rate to the entire circuit regardless of routing. MPL also discards the Hi-Lo approach of using a separate short haul rate schedule for services 25 miles or less in length, but rather incorporates short mileage services within its basic schedules. Each of the three MPL schedules, however, imposes a fixed charge for the first mile of service which is significantly greater than the charge for additional miles. As the length of the channel increases the per mile charge decreases in stepped mileage bands. The Hi-Lo tariff, on the other hand, has a flat per mile rate, with no mileage bands or steps.

5. Within each of the three MPL schedules are two types of rate element: station terminal charges, which impose a flat fee for each termination, regardless of the length of the circuit, and interexchange channel charges, which are distance sensitive. The Hi-Lo tariff used a third rate element, channel terminal charges. The latter is abandoned under MPL, however, and the channel termination charges are incorporated into the fixed portion of the graduated interexchange channel charges. A fixed charge is imposed on every point-to-point circuit; multipoint networks must pay the charge for each two-point channel section connected by the network.

6. AT&T's calculations show that the institution of the MPL rate plan will result in rate increases for 15,314 customers, decreases for 4,134 customers, and unchanged rates for 727 customers. Over 11,000 of the approximately 20,000 customers will receive rate increases of 25% or more; almost 5000 of those will receive increases of more than 50%. The greatest increases will go to users of relatively short mileage channels in all three schedules.

B. CONTENTIONS OF THE PARTIES

7. The arguments of the petitioners seeking suspension or rejection of the MPL tariff filing can be divided into three main categories: (1) claims that the MPL plan is unlawfully discriminatory; (2) claims that the supporting material not yet submitted is so crucial that the tariff should not be allowed to become effective until the material can be examined; and (3) claims that the supporting material filed with the tariff is erroneous, misleading or inadequate.

8. Those contending unlawful discrimination argue that the MPL plan discriminates in the same manner as the Hi-Lo scheme and thus imposes the same burden of proof on AT&T to show that the discriminations are justified. Discrimination is seen in the differing charges between the schedules, in the differing charges between the mileage bands within each schedule, and in the imposition on multi-point users of two-point interexchange channel charges for each pair of service points. The petitioners claiming that the tariff should not be allowed to become effective until submission of all the supporting material contend either that the material said to be in preparation will not fulfill the requirements of 47 C.F.R. § 61.38 or that an evaluation of the lawfulness of the tariff cannot be made by the petitioners or this Commission without an examination of that material.

9. Several reasons are advanced to support the claim that the material submitted is not adequately supportive of the tariff. They include claims that Fully Distributed Cost Method 1 should

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Inc. (collectively "MCI Carriers"). Petitions for Rejection of those revisions were filed by SPCC and the MCI Carriers. Petitions for Suspension of the revisions filed in Transmittal No. 12547 (Series 5000) were filed by Aeronautical Radio, Inc. (ARINC), ADRA, UPI, the Press Parties, the Executive Agencies and the MCI Carriers. A Petition for Rejection of those revisions was filed by the MCI Carriers. In response to these petitions AT&T filed a Reply to the petitions for suspension of the tariff revisions filed under Transmittal No. 12546, a Reply to the petitions for suspension of the tariff revisions filed under Transmittal No. 12547, and an Opposition to the petitions for rejection of the revisions filed under Transmittal No. 12546. SPCC also filed a Motion, addressed to the Chief, Common Carrier Bureau, requesting a thirty day deferment of the effective date of the revisions in Transmittal No. 12546. AT&T filed an Opposition to this motion. The request is mooted by the action taken herein and is hereby dismissed.

[2] The filings herein were made on April 19, 1976, to become effective May 19, 1976, and subsequently deferred for one day at the request of the Chief, Common Carrier Bureau.

not have been the sole method relied on, that AT&T failed to show that the rates accurately reflect costs, that the requirements of the Hi-Lo Interim Decision are not met, that AT&T failed to show that no cross-subsidies will flow from one service to another or from one Schedule to another within the service, that the cost analysis submitted conflicts with earlier cost analyses submitted by AT&T in other proceedings, that the cost studies contain errors or misallocations of costs or expenses, and that the MPL rate structure would permit unwarranted increases in local distribution facilities provided to other common carriers.

10. Other miscellaneous arguments advanced include contentions that the magnitude of the rate increases are unjust and unreasonable per se; that although our Specialized Common Carrier decision (29 FCC 2d 870 (1971)) approved AT&T's departure from the nationwide averaging of rates in some instances, this particular deviation has never been justified; that the needs of the press are unique and that this industry will be particularly damaged by application to it of the MPL rate plan; that all AT&T rate increases require a hearing until the Private Line Rate Case, Docket No. 18128, and the AT&T Investigation—Phase II, Docket No. 19129, are decided; that AT&T has failed in its duty to provide adequate service by not offering simplex service in this filing; that the rate of return indicated by AT&T, alleged to be 11.5 percent, must result in either a cross-subsidy to another service or revenues in excess of the overall rate of return; and that the MPL rate structure is anticompetitive and predatory.

C. DISCUSSION

11. Without judging the merits of any specific contention, we agree that substantial questions have been raised concerning the lawfulness of the MPL rate structure. An entirely new rate scheme of this type requires an extensive examination of the tariff and its accompanying support material. This is particularly true in light of the magnitude and scope of the rate increases included in this tariff filing and the nature of the support material not yet submitted. Some of the specific features of the tariff which need close scrutiny are, among others, the increases in the charges for services of 25 miles or less in length, the high charge for the first mile of service, the possible anticompetitive implications of the decreases in charges for long haul services, and the possibility of unlawful discrimination between users. Therefore, we find it necessary to institute an investigation into the lawfulness of the MPL tariff filing made under Transmittal No. 12546.

II. SERIES 5000 (TRANSMITTAL NO. 12547)

12. The Series 5000 filing, made concurrently with the Series 2000/3000 MPL filing, charges MPL rates for two-point and multi-point services using interexchange channels furnished under Series 5000(TELPAK) wherein service terminals are located twenty-five miles or less apart.[3] This change in the method of rate computation will result in increased charges for the Series 5000 services involved. These revisions were filed, according to AT&T, in order to conform the rates to the Series 2000/3000 MPL rates. Conformity between the two is desired, it is claimed, because the facility and cost characteristics are said to be similar.

13. The petitions requesting rejection or suspension of the revisions to Series 5000 argue that, since the revisions apply MPL rates they suffer from the same infirmities as are alleged against the Series 2000/3000 filing. Additionally, it is contended that several factors differ between the services and thus material supportive of one is not necessarily supportive of the other.

14. We agree that the lawfulness of this filing, which incorporates the MPL rate structure, is dependent upon the lawfulness of the MPL tariff filing in Series 2000/3000. The investigation which we have instituted herein will therefore include the revisions filed under AT&T Transmittal No. 12547. The claim that costs of the services differ significantly may be made in that proceeding; we do not pass on it here.

III. SUSPENSION OF THE SERIES 2000/3000 AND SERIES 5000 TARIFF FILINGS

15. All the petitioners have requested that we suspend the instant tariff filings, most for the full three months permitted by Section 204 of the Act. The petitioners who are users of the services have requested an accounting order pending the outcome of the investigation instituted herein. Some of the parties ask that during the suspension period the present Hi-Lo rates remain in effect while others have suggested that the pre-Hi-Lo rates be reinstituted. The petitioners are unanimous, however, in their belief that the MPL tariff filing is more harmful to them than the Hi-Lo tariff. Customers point to the increases in short haul rates, competitors to the decreases in long haul rates.

16. We agree that the MPL rate structure shows even greater variations in rates than does the Hi-Lo tariff. If these variations are found to be unjust and unreasonable discriminations between like communications services, as similar ones were in Hi-Lo, the discrimination could be more damaging to the public interest than these found to be unjustified in Hi-Lo. In that event the need for all the supporting materials would become paramount in order to determine whether the discrimination is justified by costs or competitive necessity. This possibility necessitates our suspension of the MPL tariff for the maximum three month period. 47 U.S.C. § 204.

17. Some of the petitioners have argued that the pre-Hi-Lo rates should be reinstituted during the pendency of the suspension period. Others have sought only the extension of the Hi-Lo rates. It appears that the public interest is best served by extending the Hi-Lo rates for the three month suspension period. Although we have found them to be unlawfully discriminatory and expressed our desire to minimize the duration of their effectiveness, we believe the confusion and administrative difficulties inherent in a change from the present Hi-Lo rates to the pre-Hi-Lo rates for three months, followed by the effectiveness of the MPL tariff or a replacement for it, outweigh any harm done by extending the life of the Hi-Lo tariff for three months.

18. Since three months is not sufficient time to conduct even an expedited hearing, it seems likely that the MPL tariff filing will become effective before a final decision is reached on its lawfulness. In order to protect the public we will order AT&T to keep accurate account of all monies received by it by reason of the increased rates under the MPL tariff, so that refunds may be made should any charges under the tariff be found unlawful.

19. *Accordingly, it is ordered*, That pursuant to the provisions of Sections 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201–205, 403, an investigation is instituted into the lawfulness of the revisions to AT&T's Tariff F.C.C. Nos. 260, 264 and 266, filed under Transmittal Nos. 12546 and 12547. The specific procedures to be followed in this hearing and the specific issues and subissues to be examined therein will be set forth in a Commission order which will be issued following staff scrutiny of the material to be filed on June 20, 1976.

20. *It is further ordered*, That, without in any way limiting the scope of the proceeding, it shall include consideration of the following:

(1) Whether any of the charges, classifications, regulations, or practices contained in the subject tariff revisions are or will be unjust or unreasonable within the meaning of Section 201(b) of the Communications Act;

(2) Whether such revisions will make an unjust or unreasonable discrimination or will subject any person or class of persons to undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of Section 202(a) of the Communications Act;

(3) Whether such revisions have been filed in full compliance with Section 203 of the Communications Act governing the filing of tariff schedules, and Part 61 of the Commission's Rules adopted thereunder;

(4) Whether such charges, regulations, practices, and classifications are in conformity with the requirements of our Final Decision in Docket No. 19919, 58 FCC 2d 362, and with such ratemaking principles and guidelines as may be adopted by this Commission in the Private Line Rate Case, Docket No. 18128;

[3] Pending a decision in *Commodity News Services, Inc.* v. *FCC*, No. 75–2057 (D.C. Cir), MPL rates have not been filed in connection with Series 5000 individual channel extensions.

(5) Whether such charges, regulations, practices and classifications are in conformity with the regulatory policies and objectives adopted by this Commission in its Specialized Common Carrier decisions in Docket No. 18920;

(6) Whether this Commission should prescribe just and reasonable charges, classifications, regulations and practices to be followed hereafter with respect to the service governed by such tariff revisions and, if so, what charges, classifications, regulations and practices should be prescribed.

21. *It is further ordered,* That, pursuant to section 4(i), 4(j), and 204 of the Communications Act, the tariff revisions filed by AT&T under Transmittal Nos. 12546 and 12547 are suspended until August 20, 1976.

22. *It is further ordered,* That AT&T shall, in the case of all increased charges made pursuant to the traiff revisions filed with Transmittal Nos. 12546 and 12547, until further order of this Commission, keep accurate account of all monies received by reason of such increases, specifying by whom and in whose behalf such amounts are paid.[4]

23. *It is further ordered,* That, the effective date of our Final Decision and Memorandum Opinion and Order in Docket No. 19919, 58 FCC 2d 362 (1976), is postponed until August 20, 1976.

24. *It is further ordered,* That the petitions for rejection of the subject tariff revisions, listed above, are denied.

25. *It is further ordered,* That the petitions and investigation, listed above, are granted as is consistent herewith and are otherwise denied.

26. *It is further ordered,* That AT&T is the party-respondent herein and that the petitioners listed in footnote 1 above, and any other party filing a notice of intent to participate in this proceeding within 10 days of the publication of this Memorandum Opinion and Order in the FEDERAL REGISTER, are designated parties hereto.

Adopted: May 19, 1976.

Released: May 20, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-15837 Filed 5-28-76;8:45 am]

[Docket No. 20682]

CHANGES IN THE ENTERTAINMENT FORMATS OF BROADCAST STATIONS

Development of Policy

1. On December 22, 1975, the Comission adopted a Notice of Inquiry (Notice) in the above-entitled proceeding (41 Fed. Reg. 2859). The dates originally set for the filing of comments and reply comments were February 19 and March 3, 1976, respectively. On February 18, 1976, an Order extending the time for filing comments and reply comments (41 Fed. Reg. 8213) was granted to April 5 and May 5, 1976, respectively, and a further Order was granted (41 Fed. Reg. 14595) on March 31, 1976, extending the filing of comments and reply comments to April 20 and May 20, 1976, respectively. The Commission has received comments from thirty-seven parties in response to its Notice.

2. On May 10, 1976, Citizens Communications Center (CCC) filed a Motion For Extension of Time To File Reply Comments and For Further Relief, requesting that the time for filing reply comments be extended to and including July 20, 1976. CCC states that many of the comments are voluminous, some containing outside studies, and thus require considerable time and thought for the preparation of reply comments. CCC also states that it is preparing: (1) a reply brief in the appeal of the Commission's multiple ownership rules, due May 20, 1976; (2) comments in the Commission's clear channel proceeding, due May 21, 1976; and (3) an initial brief in the appeal of the Commission's Fairness Report, due July 2, 1976, necessitating significant expenditure of time at this point. The extension is also deemed necessary by CCC because two legal holidays and summer vacations make coordination among parties interested in filing extremely difficult and time consuming.

3. Aside from these reasons, CCC alleges this proceeding is not one of utmost Commission urgency or expedition since the Commission waited over a year after the decision in *Citizens Committee to Save WEFM* v. *FCC*, 506 F. 2d 246 (D.C. Cir. 1974) (WEFM), to issue the Notice, and then did not release the Notice until a month after its adoption. CCC believes that further delay will prejudice no party since WEFM controls adjudicatory consideration at this point. In addition, CCC asserts that the Commission has failed to inform citizens groups of this proceeding or to encourage their participation. Accordingly, CCC asserts that the Commission should: (a) send its Notice, together with CCC's Petition to Reconsider, Rescind, Suspend or Redirect Inquiry and the Commission's response thereto, to all groups which have participated in adjudicatory cases involving change of format since 1970; (b) contract for an independent study of the marketplace to provide citizens groups with information they are unable to develop due to costs and allow a reasonable time for comments thereon; and, (c) issue a Notice of Rulemaking in this docket. CCC believes that these measures, together with the requested extension, may result in a more balanced number of reply comments between broadcasters and citizen groups rather than the large disparity in favor of broadcasters which occurred in the filing of comments. Finally, CCC requests that the Commission schedule oral arguments or panel discussions, as done in the newspaper-television cross ownership, pay cable and prime time access proceedings, a procedure, allegedly, more likely to develop the meaningful data upon which to base a decision in this matter than the course the Commission is presently following.

4. The Commisson believes that the voluminous, and sometimes complex, nature of the comments filed herein warrant, alleged by CCC, some additional period of time within which to prepare meaningful and helpful reply comments. We do not believe, however, that the lengthy extension requested by CCC is required to accommodate this end. The ninety day period of time allowed for the filing of comments provided ample time for parties to familiarize themselves with the issues and matters under consideration herein and to gather the information and material believed necessary to deal with those concerns. The need to develop new material for reply comments should, therefore, be minimal, and analysis of the comments received should require substantially less time than provided for their filing. Additionally, the Commission has set, as indicated in its publicly distributed "Three-Month Calendar", released May 3, 1976, a target date of July 28, 1976, for action in this docket. The period of time requested by CCC would severely jeopardize our ability to meet what we believe is an appropriate date for resolution of this proceeding. Under these circumstances, an additional period of time to time to and including June 3, 1976, will be granted for the filing of reply comments in this docket. We do not contemplate issuing any further extensions.[1]

5. We do not believe the other matters raised by CCC support its requested lengthy extension of time. We have previously considered and rejected, in our Memorandum Opinion and Order denying CCC's Petition to Reconsider, Rescind, suspend or Redirect Inquiry in this Docket, 36 RR 2d 902, CCC's request that we contract for an independent study of markets and issue a Notice of Proposed Rulemaking herein, and CCC has submitted no new data requiring reconsideration of this request. Nor do we believe the failure of more public interest groups to file comments in this proceeding is the result of Commission failure to adequately encourage or inform. In

[4] When large numbers of customers receive relatively small increases, such as the increases in message telephone service charges recently designated for hearing in Docket No. 20732, 58 FCC 2d 1 (1976), the costs of keeping individual accounts and making individual refunds often exceed the amount refunded. Since those costs are expenses ultimately borne by the ratepayer, the public interest is best served by the use of a class accounting order which minimizes the cost of refunds (the costs of keeping the accounts are virtually identical whether class or individual). In the instance case, however, we have chosen to require AT&T to keep accounts by customer instead of by service class or subclass because of the relatively small number of customers and the large increases incurred by many of them.

[1] We do not believe that the schedule adopted herein is indicative of treatment resembling "utmost urgency or expedition." Rather, we believe that the important matters under consideration here may be properly dealt with in the time allotted and in keeping with our desire to act on significant proceedings within a reasonable amount of time.

addition to publication of this proceeding in the FEDERAL REGISTER and through Commission public notices, notification of this proceeding was published in the Commission's "Action Alert" service. This service is specifically designed to inform public interest and consumer groups of Commission proceedings. Any such group interested enough in our proceedings need only request to be put on the "Action Alert" mailing list and in fact, over 300 such groups and individuals do receive this service. As for CCC's request that we schedule oral argument or panel discussions in this docket, such action is premature at this stage of the proceeding. If, after all comments have been received, the Commission believes it still needs additional information before reaching ultimate conclusions, methods for obtaining that information will then be considered.

6. Accordingly, *it is ordered*, That the above Motion For Extension of Time to File Comments and For Further Relief, filed by Citizens Communications Center, is Granted to the extent that the date for filing reply comments is extended to June 3, 1976, and *is denied* in all other respects.

7. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-15836 Filed 5-28-76;8:45 am]

[FCC 76-430; Docket No. 20801]

MIDWESTERN RELAY CO.

Memorandum Opinion and Order Instituting Investigation

By the Commission: Commissioner Reid absent.

1. The Commission has before it Transmittal No. 11 of Midwestern Relay Company (Midwestern) and the accompanying revised tariff pages filed on March 15, 1976 to become effective May 14, 1976. A petition to suspend, investigate, and order an accounting with respect to the proposed tariffs was filed by Community Video, Inc. operator of cable television sytems in Wisconsin Rapids, Grand Rapids, Grant, and Port Edwards, Wisconsin. A petition for rejection was filed jointly by American Broadcasting Companies, Inc., (ABC) and CBS Inc, (CBS). Midwestern has replied to both petitions.

2. Midwestern provides point-to-point microwave radio service to cable television and broadcast customers in Northern Illinois, Wisconsin, Eastern Minnesota and Northeastern Iowa. Midwestern's Class A service consists of both full-time and occasional protected network transmission service. The full-time service is provided to ABC, CBS and NBC for their affiliates throughout Midwestern's service area. The facilities for occasional service are utilized to interconnect television stations on Midwestern's system with other points along the system or with other common carriers, and to transmit programming from points of service to the national networks for inclusion in network programming. Midwestern's Class B service includes unprotected, point-to-point transmission of video and audio channels between designated origination and receiving points. This service is utilized by the State of Wisconsin's educational television network. Class C service consists of unprotected transmission of distant television signals from off-the-air pickup points to cable television systems along Midwestern's service route.

3. The proposed revisions filed by Midwestern result in increased charges of varying amounts for all the components listed below which comprise the rate structures for the services offered pursuant to this tariff. The rate structure for Class A service is based on charges for the following: city-to-city channel (computed by number of miles between the two cities), market connection, local station loop, and local remote loop. Charges for Class B service are determined by the number of miles between the point of transmission to the point of reception and by the number of receivers at the point of reception. The rate structure for cable television service consists of a channel connection charge and a monthly service charge. This service charge has been revised by the subject tariff filing as follows:

	Number of subscribers	Rate per subscriber
Level:		
I	0 to 1,000	$0.15
II	1,000 to 5,000	.10
III	5,001 and over	.05

Midwestern states that its rate increases are necessary due to unanticipated losses of almost $3 million between 1972 and 1975. These deficits were experienced as a result of a series of construction difficulties and adverse economic conditions. Despite capital contributions,[1] the losses and resultant financial drain to Midwestern have continued. According to its Support Data supplied pursuant to § 61.38 of the Commission's rules, Midwestern's debt to equity ratio for 1973 was 77.3 percent to 22.7 percent, for 1974, 76.6 percent to 23.4 percent, and for 1975, 56.5 percent to 43.5 percent. Midwestern reports that its actual return in 1975 was 2.3 percent and, assuming the instant rate increases become effective, its return in 1976 will be 7.3 percent; in 1977, 9.1 percent; and in 1978, 9.6 percent. Midwestern claims that the allowable rate of return on its investment should be between 12.8 percent and 13.1 percent.

4. Community Video maintains that Midwestern's rate structure for Class C service is basically the same as those being considered by the Commission in American Television Relay, Inc., Docket No. 19609, 37 FCC 2d 751 (1972), Western Tele-communications, Inc., Docket No. 20493, 55 FCC 2d 203 (1975), and *Mountain Microwave Corp.*, Docket No. 20493, 56 FCC 2d 63 (1975). Thus, Community Video urges the Commission to suspend and investigate Midwestern's tariff revisions, deferring a hearing pending the outcome of ATR, and possibly WTCI and MMC. In support of its position, Community Video claims that Midwestern has not supplied sufficient information to justify its rate increases. Specifically, Community Video argues that the debt-equity ratios employed are theoretical and therefore the costs set forth by Midwestern has no basis. Also, Community Video maintains that the rates of return are unjustified. In regard to the rate structure, Community Video argues that the number of subscribers served bears no relation to the carrier's costs of service and that the rates to some cable customers farther from the signal source are lower than Community Video's. As a result of Midwestern's rate structure, Community Video alleges that the customers for Class C service are subsidizing the network service. Community Video also argues that the tariff revisions unilaterally modify the terms of the agreement between Midwestern and Community Video.

5. Midwestern responds to the above arguments by stating that they are general and conclusory and unsupported by fact. Midwestern defends its support data as exceeding the required justification. Midwestern also claims that its rate-making methodology is adequately explained. In regard to the challenge to its per-subscriber charge for Class C service, Midwestern argues that its charge provides a "rational means of reducing the maximum allowable charge to reflect the size of the groups actually using the service." Midwestern also attempts to distinguish its rate structure from those proposed by ATR, WTCI and MMC. It claims that its Class C rate structure has been in existence for over three years and that the present revisions result in a small rate increase. On the other hand, Midwestern argues that the other proceedings involve major revisions involving novel rate structures, new pricing policies and substantial increases. Also, Midwestern points out that charges are based on actual cable subscribers rather than population of the community served. Finally, Midwestern notes the absence of allegations of intra-class discrimination.

6. We are of the opinion that specific questions are raised as to whether certain aspects of Midwestern's proposed tariff revisions are lawful within the meaning of sections 201(b) and 202(a) of the Communications Act and that further investigation and hearing on these

[1] Midwestern was organized as a partnership between The Journal Company and American Microwave and Communications, Inc. in 1969. In 1975, Midwestern Relay, Inc., a wholly-owned subsidiary of The Journal Company, purchased American Microwave's interest. The Journal Company has reportedly made contributions to offset Midwestern's operating losses.

limited issues is warranted. First, questions are raised as to the appropriate capital rate structure and rate of return for Midwestern's overall services provided in its Tariff F.C.C. No. 1. For example, in its support data (Schedule VIII), Midwestern shows equity of $2,600,000 and debt of $8,500,000 or a 23.4 percent/76.6 percent equity/debt ratio for 1974. However, in its FCC Form P for 1974, Midwestern shows equity of $301,453 and debt of $8,500,000 or a 3.4 percent/96.6 percent equity/debt ratio. Even though The Journal Company is reported to have made capital contributions to Midwestern, Midwestern's financial statement does not disclose how such contributions were reflected for accounting and ratemaking purposes. Second, Midwestern's rate structure for Class C service embodies concepts which deviate from traditional cost of service ratemaking principles. Although Midwestern's structure is not identical to those proposed by ATR, they are similar in principle and raise similar questions of lawfulness. Therefore, we will defer a hearing on Midwestern's tariff filing pending completion of proceedings in Docket No. 19609. It is anticipated that a final decision in that proceeding will be forthcoming in the near future. We see no need to defer this proceeding pending completion of the WTCI and MMC case also. Specific procedures and issues for the hearing in this case will be designated by subsequent Commission order.

7. We shall suspend Midwestern's proposed rate increases for all the services covered by the subject tariff revisions for a period of one day and impose an accounting order. It is apparent that Midwestern is in need of rate relief, since it has sustained operating losses since 1972 and projects losses of approximately $400,000 per year under its current level of rates. Therefore, a suspension for the maximum statutory period is not warranted.

8. We find that ABC and CBS have not made the showing of prima facie unlawfulness necessary to warrant rejection of Midwestern's tariff revisions for Class A service.[2] Petitioners' claim that we must reject the tariff filing because it would frustrate our policy of competition is without merit. Furthermore, we find merit in Midwestern's contention that the networks have benefited and will continue to benefit economically from Midwestern's service. Petitioners' contention that their contracts with Midwestern supersede the subject tariff filings is also without merit. We stated the following in regard to carrier service offerings to non-carrier customers:

> * * * the effective rates, practices, and regulations are those which appear in the carrier's tariff on file with the Commission and such tariff, the Commission's Rules, and the Act itself, are applicable as a matter of law, notwithstanding any conflicting provision appearing in the agreement executed by the carrier with its customers. United Video, Inc., 49 FCC 2d at 880.

Thus, a carrier is obligated pursuant to Sections 201, 202 and 203 of the Act to provide rates by tariff that are cost justified and not unduly discriminatory. We are obligated under the above provisions of the Act to require tariffs to be filed and, likewise, we must have authority over the terms and conditions of service provided by carriers to customers. Contrary to petitioners' contentions, the Court's holding in *Bell Telephone Company of Pa.* v. *F.C.C.*, 503 F.2d 1250 (3d Cir. 1974), cert. denied, 422 U.S. 1026 (1975), was limited to contracts between common carriers and did not encompass contracts between carriers and customers, such as the agreements between Midwestern and the networks. The only contracts before the Court were contracts between common carriers. Our reasoning for the determination that the Court's holding was clearly limited to carrier-carrier contracts is set forth in United Video, Inc., 55 FCC 2d at 517. The only factual distinction between the contracts at issue here and in United Video is that the contracts between Midwestern and the networks contain no provision recognizing the carrier's right to alter the terms of service by tariff. This fact cannot be used as a barrier to a cost justified rate increase by tariff. A carrier cannot be restricted to a particular rate, especially for a five year period. Such a restriction operates, in point of fact, as a moratorium on rate increases. We have already stated our opposition to such arrangements in International Record Carrier's Scope of Operations, Docket No. 19660, 55 FCC 2d 96 (1975) recon. granted on other grounds, 55 FCC 2d 782 (1975). In that proceeding, we rejected a provision in a settlement agreement which contemplated a moratorium until January 1, 1978 on Western Union seeking any further increases in landline haul divisions and making certain changes in its telex tariff. In rejecting this provision, we stated that our statutory and public interest obligations are to a large part dependent on the public, common carriers as well as their customers, bringing to our attention by tariff filings or other appropriate means matters which may affect the public interest. We also held that such provisions hinder our ability to receive facts upon which to fulfill our statutory obligations and therefore are contrary to the public interest. We find the instant situation to be even more compelling, since it involves a longer period of time and is between carrier and customers.

9. Accordingly *it is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by Midwestern Relay Company with Transmittal No. 11, subject to the schedules and procedures specified herein;

10. *It is further ordered*, That, pursuant to the provisions of section 204 of the Act, the revised tariff schedules filed by Midwestern with Transmittal No. 11 are hereby suspended until May 15, 1976 and that Midwestern, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision herein, the Commission may by further order, require the refund thereof, with interest, pursuant to section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require;

11. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act hearings in this investigation are deferred during the pendency of Commission proceedings in Docket No. 19609 or until further Commission order;

12. *It is further amended*, That, Midwestern is made a party Respondent herein and that Community Video, Inc. and the Trial Staff are made parties pursuant to Section 1.221(d) of the Commission's Rules, and that all other interested persons wishing to participate may do so by filing a notice of intention to participate within 30 days of the date of publication of this order in the FEDERAL REGISTER;

13. *It is further ordered*, That, the petition for rejection filed by ABC and CBS is denied;

14. *It is further ordered*, That, the petition for suspension, investigation and order of accounting is granted to the extent indicated herein and is otherwise denied;

15. *It is further ordered*, That, the Secretary shall send a copy of this order by certified mail, return receipt requested, to the parties identified in paragraph 16 above, and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: May 11, 1976.

Released: May 20, 1976.

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

[FR Doc.76-15838 Filed 5-28-76;8:45 am]

[2] The controlling legal principles were recently set forth in United Video, Inc., 49 FCC 2d 878 (1974), recon. denied, 55 FCC 2d 516 (1975).

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

Members of Special Committee No. 65 "Ship Radar": Notice of 47th Meeting, Wednesday, June 16, 1976—1:30 p.m. Con-

ference Room 8210, 2025 M Street NW., Washington, D.C.

Formal Meeting Schedule for SC–65 Working Groups To be held at 2025 M Street NW., Washington, D.C.

Working group	Room	Date	Time (a.m.)
Reliability	8210	June 15	9:30
Collision avoidance	8210	June 16	9:30

If other Working Group meetings are scheduled, Group Members will be notified.

Agenda for June 16, 1976.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC–65 Summary Records; Appointment of Rapporteur.
3. Progress Reports of Working Groups on: (a) Reliability; and (b) Collision Avoidance Systems.
4. Status Reports on Other Working Groups.
5. Other business.
6. Establishment of next meeting date.

Irvin Hurwitz, Chairman, SC–65, Federal Communications Commission, Washington, D.C. 20554, Phone: (202) 632–7197.

Special Committee No. 68, "Marine Radiotelephone Operator Education": Notice of 15th Meeting, Tuesday, June 15, 1976—9:30 a.m. Conference Room A–205, 1229 20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC–68 Summary Records.
4. Review printing proposals for Handbook.
5. Make vendor recommendation.
6. Establish cover price and discount structure.
7. Review promotion plans for Handbook.
8. Review proposed feature stories.
9. Establishment of next meeting date.

A. Newell Garden, Chairman, SC–68, Raytheon Company, 141 Spring Street, Lexington, Mass. 02173, Phone: (617) 862–6600 (Ext. 414).

RTCM SC 69/FCC WARC–79 Advisory Committee for Maritime Mobile Service: Ninth Meeting, 2025 M Street, N.W., Washington, D.C., Room 8210, 9:30 a.m. to 12:30 p.m., Tuesday, June 29, 1976.

AGENDA

1. Call of the Agenda.
2. Chairman's Opening Remarks.
3. Reports of the Task Forces.
4. Review work to be accomplished.
5. Further Business.
6. Set date for next meeting.
7. Adjournment.

Charles Dorian, Chairman SC 69, COMSAT General, 950 L'Enfant Plaza, S.W., Washington, D.C. 20024, Phone: (202) 554–6829.

8. Report of Finance Committee.
9. Approval of SC–64 Foreword.
10. Report on 1977 Assembly Meeting.
11. Summary Reports and Announcements.
12. New Business.
13. Establishment of next meeting date.

To: RTCM Officers, Executive Committee Representatives and Alternates, and Special Committee Chairmen.

Subject: Executive Committee Meeting, Thursday, June 17, 1976.

The next Executive Committee Meeting will be on Thursday, June 17, 1976, at 10:30 a.m. in Conference Room 847, 1919 M Street, N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Progress Reports on Currently Active Committees.
5. Status Reports on Other Committees.
6. Review of Terms of Reference for Special Committees.
7. New Membership Applications for Executive Committee Approval.

To comply with the advance notice requirements of Public Law 92–463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632–6490.)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76–15922 Filed 5–28–76;8:45 am]

[Docket OFU–047, Edge Moor Powerplant No. 4]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974

Notice of Intention To Modify Order

On June 30, 1975 the Federal Energy Administration, pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (P.L. 93–319), ordered that Powerplant No. 4 of the Edge Moor Generating Station in Wilmington, Delaware, owned and operated by Delmarva Power and Light Company, be prohibited from burning natural gas and petroleum products as its primary energy source. The order will be effective on the date stated in a Notice of Effectiveness which will be served on the powerplant by FEA.

The FEA hereby gives notice of its intention to modify this order on its own initiative, pursuant to 10 C.F.R. 303.130 *et seq.*, to permit burning of petroleum products by the powerplant to the extent necessary to permit the undertaking of a solid waste energy and materials recovery project for which state and Federal funds have been committed. The project, to be funded by grants from the Delaware Department of Natural Resources and Environmental Control and the United States Environmental Protection Agency, is designed to demonstrate the feasibility of co-firing processed solid waste with fuel oil in existing steam-electric boilers. This project was not the subject of binding commitments at the time the order was issued. EPA has, however, informed the EPA that the commitments necesary to permit the project to proceed have now been made and that the only remaining impediment to the project is the FEA restriction upon use of petroleum products. EPA has further informed FEA that the project is important from both fuel oil conservation and solid waste disposal considerations, and has emphasized the importance to EPA programs and objectives of FEA taking actions necessary to permit the project to proceed.

FEA has concluded that, in view of the binding commitments now made to the project, and in view of the consistency of the project with the purposes of ESECA, it appears to be appropriate to modify the order. FEA regulations permit modification of orders to accommodate significantly changed circumstances, (10 C.F.R. 303.136(b)(2)), including a substantial change in the facts or circumstances on which the order was based, which change occurs after the order is issued.

Copies of the proposed modification decision and order may be obtained from Alan H. Carpien, Office of Coal Utilization, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, telephone 202–961–6006.

Interested persons are invited to submit written data, views and arguments with respect to the proposed modification to Executive Communications, Federal Energy Administration, Box GX, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Modification of Prohibition Order: OFU–047." Fifteen copies should be submitted. All comments received on or before June 14, 1976, and other relevant information will be considered by FEA.

Issued at Washington, D.C., May 25, 1976.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.76–15731 Filed 5–26–76;10:07 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALL FOR INDUSTRY NOMINATIONS AND AREAS OF PUBLIC CONCERN

Request for Information on Areas of Interest With Respect to Areas Suitable or Unsuitable for Federal Coal Leasing

This call for nominations and request for information is directed primarily to industry but includes all organizations and individuals who have interests or concern regarding the leasing of Federal coal lands. Industry, environmental groups, State and local governments, and the public-at-large are urged to nominate areas which they feel should or should not be leased by the Federal Government to industry for coal development. Industry Nominations are being requested at this time to determine specific tracts of interest for the leasing of Federal coal. Indications from the public and State governments on areas for or opposed to coal leasing may also be submitted at this time. Nominated areas both for and against leasing and information describing the rationale for these nominations will be used by the Department of the Interior's Bureau of Land Management to determine in large measure the selection of specific lease tracts and where and when future competitive coal lease sales will be held.

Nominations and any accompanying narrative may be submitted to the Director, Bureau of Land Management until July 23, 1976.

Nominations and information are requested for specific coal areas in the principal States which contain major areas of federally-owned coal: North Dakota, Montana, Wyoming, Colorado, Utah, and New Mexico. However, coal areas containing federally-owned coal in other States (e.g., Oklahoma, Alabama) should also be considered.

Lands subject to this call for information include those areas where the Federal Government owns both the coal resources and the land surface, and those areas where the Federal Government owns the coal resources (Federal mineral estate) but not the land surface (i.e., much of Western North Dakota). Nominations will be accepted only for those lands that are eligible for coal leasing. For example, nominations will not be accepted for lands that are not subject to the provisions of the Mineral Leasing Act such as lands acquired under the Appalachian Forest Act, and those in incorporated cities, towns and villages and in national parks and monuments (30 U.S.C. 181). In addition, nominations will not be accepted for land that is withdrawn from coal leasing or otherwise not subject to the provisions of the Mineral Leasing Act. Finally, nominations will not be accepted for land that is subject to a coal lease, permit, or preference right lease application. As a matter of policy, the Department does not intend to issue coal leases in National Wildlife Refuges, units of the National Parks System, Wilderness Areas and areas designated by the Bureau of Land Management as primitive areas. Comments should not be made concerning areas where the coal is not owned by the Federal Government except where non-Federal coal would necessarily be included in the economic development of Federal coal due to irregular or scattered ownership. Management Framework Plans are important sources of information which the public and industry should use in formulating nominations.

To provide the Bureau of Land Management with the most useful information and for administrative ease in handling, industry Nominations and Areas of Public Concern are requested as follows:

(1) Each nomination is limited in size to a minimum of 160 acres and a maximum of 2560, except where a desired logical mining unit (as defined in 43 CFR 3500.05(d)) requires acreage greater than 2560 acres, in which this nomination would consist of the proposed LMU.

(2) The number of nominations submitted, including resubmitted applications, will not be limited but each must be assigned a ranking number which is not elsewhere duplicated in the nominations submitted.

(3) Since nominations may be of two different types, (a) Industry Nominations and (b) Areas of Public Concern, two ranking methods are required to reflect nominator's views:

(a) Industry Nominations should be ranked starting with the most suitable development area (number one priority) and ending with least desirable development areas.

(b) Areas of Public Concern should be ranked by degree of environmental hazard or impact of coal development from the area of most concern (number one priority) to areas of lesser concern.

Nominators may elect to submit either Industry Nominations or Areas of Public Concern. Generally Industry Nominations will indicate areas desired for leasing. However, separate listings portraying Industry Nominations against leasing along with rationale will be accepted. Similarly, Areas of Public Concern will generally depict areas where leasing should not occur. However, separate listings portraying areas amenable to leasing as determined by the public or State governments will be accepted.

(4) Rationale supporting both Industry Nominations and Areas of Public Concern is required to assist the Department and State governments in selecting coal lease units. Those nominations with specific reasons for or against leasing will be considered more significant since they will aid the Bureau of Land Management in its land use decision process covering Federal lands and mineral estate.

(a) Industry Nominations—Rationale accompanying Industry Nominations and in support of leasing may include such items as development plans, projected end use of the coal, and reserve requirements. In addition, nominators may include discussions on lease size desired by listing the priorities of the nominated tracts forming a logical mining unit. In the event industry nominators choose to nominate two or more tracts as a unit, rationale should be included which indicates why the particular acreage was selected and why it conforms to a logical mining unit.

(b) Areas of Public Concern—Rationale which details reasons for not leasing in certain nominated areas of concern may include such determinants as identification of endangered species habitat, descriptions of the archeological values of the area, details of possible watershed disruption, losses of range land and descriptions of undesired socio-economic impacts.

(5) Nominations of both types, as previously stated, will be limited to those areas eligible for leasing but it should also be noted that competitive leasing, except under the short-term criteria, will occur only in:

(a) Known Coal Leasing Areas as classified by the U.S. Geological Survey's Conservation Division;

(b) Areas of completed Management Framework Plans (land use plans) derived by the Bureau of Land Management, or Cooperative Land Use Plans prepared by the Bureau with State and local governments; and,

(c) Areas covered by regional coal environmental impact statements or, where regional statements are not required, by an environmental analysis or site specific environmental impact statement.

Known Coal Leasing Areas (KCLA's) have been identified covering approximately 10 million acres of western coal lands. These acreages encompass the prime Federal coal estate and additional classification work is continuing by the USGS. Thus, nominations should not be restricted to areas classified as KCLA's since classification work will, in part, be directed at areas nominated by industry which have thus far not been covered by KCLA determinations.

Regional coal environmental impact statements are being undertaken or have been scheduled for the following areas: Eastern Powder River (Wyoming), Northwest Colorado, West Central North Dakota, Sweetwater-Kemmerer (Wyoming), Northern Powder River (Montana), Central Utah, Southern Utah, Hanna Basin-Atlantic Rim (Wyoming), Star Lake-Bisti area (New Mexico), North Central Alabama, and East Central Oklahoma. Any initial leasing, except under the short-term criteria, will generally take place within those regions. However, nominations are also encouraged in areas outside those regions. Boundary adjustments may be made on the regions selected if nominations indicate significant interest in leasing in areas adjacent to but not presently included within the proposed regions. Moreover, nominations not adjacent to the proposed regions will be used by Bureau of Land Management to set schedules for preparing Management Framework Plans, etc., and by the U.S. Geological Survey in conducting its resource evaluation studies.

(6) Source of Industry Nominations and Areas of Public Concern will be held as confidential by the Department, Geological and geophysical information and data, including maps, that may be used to calculate coal resources in place, and

trade secrets and commercial and financial information obtained through the Call for Industry Nominations and Areas of Public Concern and identified as priviledged or confidential shall not be available for public inspection without the consent of the person submitting the nomination. Individual nominators will not be identified with nominated areas. Only aggregate portrayals of all nominations received will become part of the public record. Since confidentiality will be maintained, nominators should feel free to identify specific areas of interest or concern with detailed accompanying rationale (such as geological and geophysical data concerning Industry Nominations or periodicity of stream flow in the case of Areas of Public Concern) in support of or contesting the leasing of Federal coal.

(7) Nominations will supplement the Bureau's land use planning system and together they comprise the primary driving force behind the new competitive coal leasing process termed the Energy Minerals Activity Recommendation System. Coal lease tracts will be considered and selected through the land use planning and environmental analysis processes, in general, only where Industry Nominations have been received. To a large extent, Industry Nominations will be used by the U.S. Geological Survey and Bureau of Land Management, with State government participation, to determine the configuration and size of coal lease tracts. Areas of Public Concern, also requested at this time, will serve as checks to the completeness and accuracy of specific resource values which may override the use of land for coal development as analyzed in the Bureau of Land Management's multiple use planning process.

Specific factors considered in the rating and selection of coal lease tracts from nominated areas will include such items as: resource accessability, competitive situation, conflicting legal issues, value of existing land use, relationship to existing communities, potential impacts on economic structure (e.g., employment, available services), service and access corridors, and reclamation potential. Proposed tracts derived from the land use planning nominations process are included within environmental analyses of regional and/or local scope and will be included within the Bureau of Land Management's coal lease sale schedule if the environmental analyses determine tracts to be suitable for leasing and development.

(8) Duplicate nominations or more than one list of nominations from the same company, organization or individual will not be considered.

(9) For this call, competitive coal lease applications on file in Bureau of Land Management offices should be resubmitted as Industry Nominations and ranked as described above, but lease applicants are encouraged to nominate additional areas of specific interest.

(10) The frequency and scope of calls for nominations and information on areas of interest will be determined at the discretion of the Secretary of the Interior. Such calls will not be made more frequently than annually.

(11) The Bureau of Land Management's Surface/Minerals Management Quads (½"=1 mile mineral ownership maps, 5 x 6 townships) are recommended, but not required, as the vehicle on which to portray both Industry Nominations and Areas of Public Concern for and against leasing. The BLM ownership maps cover all Known Coal Leasing Areas and all other significant western coal deposits. A readily discernible line conforming to legal subdivision and section lines will be accepted as the description on these maps. Priority ranking as determined by the nominator should be placed within each nominated block. Again, nominated blocks should embrace the coal lease tract desired, in the case of Industry Nominations, or should encompass the area of environmental or other resource hazard, in the case of Areas of Public Concern. The BLM Surface/Mineral Management Quads are available for sale at BLM State and most District Offices in the area served at a cost of $2 per quad. Maps depict surface ownership in color and ownership of the mineral estate by line symbols and cross hatching.

(12) If BLM maps are not yet published or if it is not desired to use maps, legal land descriptions will be accepted of nominated tracts for or opposed to leasing.

Nominations not portrayed on BLM mineral ownership maps shall describe coal estate by legal subdivision, section, township, and range; or, in the case of protracted surveys, by section, township and range. If lands have not been surveyed under the public land rectangular system, each nomination shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature.

The Bureau of Land Management ownership maps are not yet available for eastern States where the Federal Government administers mineral estate. However, a list of Federal coal ownership covering lands in Alabama is available from the Bureau of Land Management's Eastern States Office.

(13) Industry Nominations and Areas of Public Concern received in this call will be appropriately portrayed and made available to State and local governments so that they may plan for possible coal lease tract selection and leasing in areas nominated for leasing. Nominations from industry, State and local governments and the general public with respect to coal leasing will supplement public inputs across the broader range of BLM resource management responsibilities which the Bureau routinely requests throughout its land use planning process.

(14) Nominations should be sent to the appropriate State Director, at the following addresses:

Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202.

Montana State Office (includes N. and S. Dakota), Federal Building & U.S. Courthouse, 316 N. 26th Street, Billings, Montana 59101.

Eastern States Office (including all States bordering and east of the Mississippi River), 7981 Eastern Avenue, Silver Spring, Maryland 20910.

New Mexico State Office (includes Oklahoma), U.S. Post Office and Federal Bldg., South Federal Place, P.O. Box 1449, Santa Fe, New Mexico 87501.

Oregon State Office (includes Washington), 729 N.E. Oregon Street, P.O. Box 2965, Portland, Oregon 97208.

Utah State Office, Federal Building, 125 South State, P.O. Box 11505, Salt Lake City, Utah 84111.

Wyoming State Office, Joseph C. O'Mahoney Federal Center, 2120 Capitol Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

The envelope containing nominations should be labeled Industry Nominations and Areas of Public Concern.

This call is issued this the 1st day of June 1976.

THOMAS S. KLEPPE,
Secretary.

MAY 24, 1976.

[FR Doc.76-15565 Filed 5-28-76;8:45 am]

CALIFORNIA AND NEVADA

Modification of Administrative District Office Boundaries, Jurisdictions, and Grazing Districts

Pursuant to the authority vested in the Secretary of the Interior, as delegated to the Director, Bureau of Land Management by 235 DM 1.1, the following modifications of administrative and grazing district boundaries and jurisdictions in California and Nevada are announced. These changes become effective July 1, 1976. This order is applicable to all Federal lands in the described areas not withdrawn for and administered by other Federal agencies. Also included in the areas under Bureau of Land Management jurisdiction are those lands and resources withdrawn by other Federal agencies, but which by law or interagency agreement are administered by the Bureau of Land Management. The following lands will be excluded from Nevada Grazing District No. 3 and added to California Grazing District No. 1:

MOUNT DIABLO MERIDIAN

T. 9 N., R. 21 E., all of the township east of the Alpine-Mono County line;
T. 8 N., R. 22 E., Sec. 1, Secs. 12 to 14, Secs. 23 to 26, and Secs. 35 and 36 inclusive;
T. 9 N., R. 22 E., all;
T. 10 N., R. 22 E., all of the township not within the national forest, except Sec. 7 and that portion of Sec. 17 in Alpine County between VonSchmidt Line (1873) and the California-Nevada State line;
T. 8 N., R. 23 E., SW¼ Sec. 3, Secs. 4 to 9, inclusive, W½ Sec. 10, W½ Sec. 15, Secs. 16 to 21, inclusive, W½ Sec. 22, Secs. 28 to 32, inclusive;
T. 9 N., R. 23 E., all of the township not within a national forest;

T. 4 N., R. 24 E., Secs. 1 and 2, N½, SE¼ Sec. 11, Secs. 12 and 13, E½ Sec. 14, NE¼ Sec. 23, Secs. 24, 25, and 36;
T. 5 N., R. 24 E., Secs. 13, 24, 25, 26, 35, and 36;
T. 2 N., R. 25 E., Secs. 1, 2, 11, 12, 13, and 24;
T. 3 N., R. 25 E., Secs. 1 to 4, Secs. 9 to 16, Secs. 21 to 27, and Secs. 34 to 36, inclusive;
T. 4 N., R. 25 E., all;
T. 5 N., R. 25 E., lots 1, 2, 3, and 4 Sec. 1; lots 1, 2, 3, and 4, Sec. 2; lots 1, 2, 3, and 4, Sec. 3; lots 1, 2, 3, and 4 Sec. 4; SE¼ Sec. 7, S½ Sec. 8, Secs. 9 to 36, inclusive;
T. 2 N., R. 26 E., Secs. 1 to 11 and Secs. 14 to 23, inclusive;
T. 3 N., R. 26 E., all;
T. 4 N., R. 26 E., all;
T. 5 N., R. 26 E., all;
T. 6 N., R. 26 E., Secs. 32 to 36, inclusive;
T. 2 N., R. 27 E., Secs. 1 and 6 (fractional);
T. 3 N., R. 27 E., all;
T. 4 N., R. 27 E, all;
T. 5 N., R. 27 E., all;
T. 2 N., R. 28 E., Secs. 1 to 17, inclusive;
T. 3 N., R. 28 E., all;
T. 4 N., R. 28 E., Secs. 4 to 10, lots 1, 2, 3, 4, W½SW¼, SE¼SW¼ Sec. 14, Secs. 15 to 22, W½ Sec. 23, Secs. 25 to 36, inclusive;
T. 5 N., R. 28 E., all;
T. 2 N., R. 29 E., Secs. 4 to 8, inclusive, N½, SW¼ Sec. 9, W½ Sec. 17, Sec. 18;
T. 3 N., R. 29 E., Secs. 4 to 9, Secs. 16 to 21, and Secs. 28 to 33, inclusive;
T. 4 N., R. 29 E., Sec. 31.

Dated: May 20, 1976.

GEORGE L. TURCOTT,
Acting Director.

[FR Doc.76-15702 Filed 5-28-76;8:45 am]

CASPER DISTRICT ADVISORY BOARD

Notice of Meeting

MAY 24, 1976.

Notice is hereby given that the Casper District Multiple-Use Advisory Board will hold a meeting in Gillette, Wyoming at the Campbell County Recreation Center on June 23 and 24, 1976. Beginning at 8:00 a.m. on Wednesday, June 23, 1976, a field tour of the Fortification Creek Area of the Powder River Breaks will be conducted. Beginning at 9:00 a.m. on Thursday, June 24, 1976, the board will gather to discuss management alternatives for the Fortification Creek Area. Reports by the Casper District Manager will also be heard on the following topics: Wyoming State Advisory Board Meeting of April 1 and 2, 1976; Goldeneye Wildlife and Recreation Area; BLM Organic Act; North Fork Primitive Area proposal; and the Department of the Interior Coal Leasing Policy.

All meetings of the board will be open to the public. Members of the public wishing to participate in the field tour will have to furnish their own transportation.

Time will be made available on Thursday, June 24, for brief oral statements by members of the public. Such statements should not exceed ten minutes and must be germane to the topics under consideration. Additionally, such statements may be reduced to writing and two copies filed with the board chairman at the meeting. Anyone wishing to make an oral statement should notify Scott Bates, Environmental Coordinator, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82602, before the close of business on Friday, June 18, 1976. Such notification should specify the topic to be addressed.

Also, any interested person or organization may file a written statement with the board for its consideration. These may be submitted at the meeting or mailed to the Casper District of the Bureau of Land Management at the above address. Early mailing of written statements is encouraged to insure adequate opportunity for board consideration.

Further information concerning the meeting may be obtained from Scott Bates, Environmental Coordinator, Bureau of Land Management, P.O. Box 2834, Casper, Wyoming 82602. The phone number is (307) 265-5550, extension 5244.

ROBERT E. WILBER,
District Manager.

[FR Doc.76-15830 Filed 5-28-76;8:45 am]

National Park Service

ADVISORY BOARD ON NATIONAL PARKS, HISTORIC SITES, BUILDINGS AND MONUMENTS SUBCOMMITTEE ON RECREATION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Subcommittee on Recreation of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held on Wednesday, June 16, and Tuesday, June 29, 1976, commencing at 9:00 A.M. in the conference room of the Recreation Plan Association, 235 East 45th Street, New York, New York.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System and the administration of the Historic Sites Act of 1935. The Subcommittee on Recreation considers and advises on matters relating to the administration of areas in the National Park System in the recreation area category of management.

The members of the Subcommittee are Linden Pettys, Ludington, Michigan; Marian S. Heiskell, New York, New York; and Fred Smith, New York, New York.

The purpose of both meetings is to discuss and consider the planning process for the Gateway National Recreation Area and to consider elements of the Gateway general management plan.

The meetings will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meetings, or who wish to submit written statements, may contact Joseph Antosca, Superintendent, Gateway National Recreation Area, Headquarters Building 69, Floyd Bennett Field, Brooklyn, New York 11234, Area Code 212, 252-9150.

Minutes of the meeting will be available for inspection 4 weeks after the meeting at the Gateway National Recreation Area Headquarters Building, and at offices of the National Park Service, Room 3126, Department of the Interior, Washington, D.C. 20240.

Dated: May 24, 1976.

ROBERT M. LANDAU,
Liaison Officer,
Advisory Commissions.

[FR Doc.76-15808 Filed 5-28-76;8:45 am]

JOSHUA TREE NATIONAL MONUMENT, CALIFORNIA DEVELOPMENT AND MANAGEMENT PLANS FOR BLACK ROCK CANYON CAMPGROUND

Intent To Hold Public Workshop

Notice is hereby given that the National Park Service will hold a public workshop in late June 1976, to provide for public involvement in formulation of development and management plans for Black Rock Canyon Campground, Joshua Tree National Monument.

The public workshop will be held from 7:30 to 10 p.m. (PDT), Tuesday, June 29, 1976, in the Recreation Hall-Ranger Station, Black Rock Canyon Campground. The campground is located five miles south of the intersection of Joshua Tree Lane and California State Route No. 62, Yucca Valley, California.

Prior to and concurrent with this public workshop will be a series of consultations between members of the National Park Service and appropriate Federal, State and local government officials, organizations and individuals.

The purpose of the workshop and consultations is to provide for extensive public involvement, including comments from individuals and organizations on the future development and management of the Black Rock Canyon Campground which was recently acquired by the National Park Service.

Anyone wanting additional information on the public workshop, the National Park Service planning process, or wishing to submit comments on the development and management of the Black Rock Canyon Campground may write to the Superintendent, Joshue Tree National Monument, 74485 Palm Vista Drive, Twentynine Palms, CA 92277. The record will remain open for written comments until July 29, 1976.

Dated: May 18, 1976.

JOHN H. DAVIS,
Deputy Regional Administrator,
Western Region, National
Park Service.

[FR Doc.76-15809 Filed 5-28-76;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 10, 1976, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that cer-

tain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since May 4, 1976. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Fayette County

Fayette, *Fayette County Courthouse District*, Roughly area between Peyton and Caine Sts., and Luxapalilla St. and RR. tracks (4-30-76).

Jackson County

Stevenson, *Stevenson Railroad Depot and Hotel*, Main St. (5-13-76).

Mobile County

Bay Minette vicinity, *Fort Louis de la Louisiane, Fort Louis de la Mobile*, 14 mi. NW of Bay Minette on Mobile River (5-6-76).

Montgomery County

Montgomery, *Opp Cottage*, 33 W. Jefferson Davis Ave. (5-4-76).

Russell County

Phenix vicinity, *Fort No. 5 (Confederate Breastwork)*, W of Phenix on Opelika Hwy. (5-6-76).

St. Clair County

St. Clair Springs, *St. Clair Springs*, AL 23 (4-26-76).

ARIZONA

Yavapai County

Prescott vicinity, *Palace Station District*, 23 mi. S of Prescott in Prescott National Forest (4-30-76).

ARKANSAS

Calhoun County

Hampton vicinity, *Dunn House*, W of Hampton on AR 4 (5-4-76).

Conway County

Morrilton, *Aycock House*, 410 W. Church (5-13-76).

Crawford County

Van Buren, *Burns, Bob, House*, 821 Jefferson (4-30-76).

Van Buren, *Dunham, Joseph Starr, House*, 418 Broadway (5-3-76).

Van Buren, *Van Buren Historic District*, Main Street, bounded by Cane Hill St. and the Arkansas River (4-30-76).

Franklin County

Altus vicinity, *Our Lady of Perpetual Help Church*, N of Altus (5-3-76).

Garland County

Hot Springs, *Short-Dodson House*, 755 Park Ave. (5-3-76).

Hot Springs, *Stitt House*, 824 Park Ave. (5-3-76).

Hempstead County

Hope, *McRae, K. G., House*, 3rd and Edgewood Sts. (5-4-76).

Hope, *St. Mark's Episcopal Church*, 3rd and Elm St. (5-6-76).

Hot Spring County

Social Hill vicinity, *Blakely House*, W. of Social Hill on AR 84 (5-3-76).

Howard County

Center Point vicinity, *Boyd, Adm, House*, E. of Center Point on AR 26 (5-13-76).

Center Point vicinity, *Russey House*, S. of Center Point on AR 4 (5-4-76).

Nashville, *First Presbyterian Church*, 2nd and Hempstead Sts. (5-4-76).

Independence County

Newark, *Dearing House*, AR 122 (5-3-76).

Logan County

New Blaine, *Elizabeth Hall*, off AR 22 (5-4-76).

Monroe County

Blackton vicinity, *Palmer House*, SE of Blackton, off US 49 (5-4-76).

Indian Bay, *Baytown Site*, off AR 1/17 (5-13-76).

Pike County

Daisy vicinity, *O'Neel-Blackburn House*, W of Daisy, off U.S. 70 (5-3-76).

Pulaski County

Little Rock, *Main Building, Arkansas Baptist College*, 1600 Main St. (4-30-76).

Little Rock, *Trinity Episcopal Cathedral*, 310 W. 17th St. (5-13-76).

Little Rock, *Vinson House*, 2123 Broadway (5-6-76).

North Little Rock, *St. Joseph's Home*, Camp Robinson Rd. off AR 176 (5-4-76).

CALIFORNIA

Los Angeles County

Beverly Hills, *Doheny Estate/Greystone*, 905 Loma Vista Dr. (4-23-76).

Los Angeles, *1300 Block of Carroll Avenue*, Carroll Avenue between Edgeware and Douglas Sts. (4-22-76 HABS.

Monterey County

Jolon vicinity, *San Antonio de Padua Mission*, NW of Jolon off Del Venturi Rd. (4-26-76) HABS.

Riverside County

Perris vicinity, *Buttercup Farms Pictograph/Rock Shelter Area*, 1 mi. NW of Perris on U.S. 395 (5-3-76).

San Francisco County

San Francisco, *Pumping Station No. 2, San Francisco Fire Department Auxiliary Water Supply System*, N of Van Ness Ave. (5-13-76) HAER.

San Francisco, *Whittier Mansion*, 2090 Jackson St. (4-26-76).

Siskiyou County

Fort Jones, *Fort Jones House (Louis Heller Studio)* Main St. (4-22-76).

Ventura County

Santa Susana vicinity, *Burro Flats Painted Cave*, 3 mi. S of Santa Susana (5-5-76).

CONNECTICUT

Fairfield County

Danbury, *Ives, Charles, House*, 7 Mountainville Ave. (4-26-76)

Hartford County

Suffield vicinity, *King, Alexander, House*, 232 S. Main St. (4-26-76) HABS

Litchfield County

Colebrook, *Colebrook Store*, CT 183 (4-26-76) HABS

Milton, *Trinity Church*, Milton Rd. (4-23-76)

New Milford vicinity, *Boardman's Bridge*, Boardman Rd. at Housatonic River, NW of New Milford (5-13-76) HAER

New Milford vicinity, *Lover's Leap Bridge*, S of New Milford on Pumpkin Hill Rd. (5-13-76) HAER

Middlesex County

Portland, *Williams and Stancliff Octagon Houses*, 26 and 28 Marlborough St. (4-22-76)

New London County

New London, *Barns, Acors, House*, 68 Federal St. (4-22-76)

Norwich vicinity, *Long Society Meetinghouse*, E of Norwich off CT 165 on Long Society Rd. (4-22-76)

DELAWARE

Sussex County

Clarksville vicinity, *Spring Banke*, NE of Clarksville on DE 26 and Irons Lane (4-30-76).

Lewes, *Hall, Col. David, House*, 107 King's Highway (4-26-76) HABS.

FLORIDA

Duval County

Jacksonville, *Brewster Hospital*, 915 W. Monroe St. (5-13-76) HABS.

Jacksonville, *Centennial Hall—Edward Waters College*, 1658 Kings Rd. (5-4-76).

Jacksonville, *Porter, Thomas V., House*, 510 Julia St. (5-13-76).

Jacksonville, *St. Andrew's Episcopal Church*, 317 Florida Ave. (5-4-76) HABS.

Jacksonville, *St. James Building*, 117 W. Duval St. (5-3-76).

Lee County

Estero, *Koreshan Unity Settlement Historic District*, U.S. 41 at Estero River (5-4-76).

Orange County

Orlando, *Old Orlando Railroad Depot*, Depot Place and W. Church St. (4-22-76)

Polk County

Fort Meade, *Christ Church (Episcopal)*, 526 N. Oak (5-6-76).

Wakulla County

Crawfordville, *Old Wakulla County Courthouse*, Church St. (5-3-76).

GEORGIA

Fulton County

Atlanta, *Oakland Cemetery*, 248 Oakland Ave., SE (4-28-76)

GUAM

Talofofo vicinity, *Asquiroga Cave*, N of Tolofofo off Insular Rte. 4 (5-6-76)

HAWAII

Honolulu County

Honolulu, *Palama Fire Station*, 879 N. King St. (4-21-76)

IDAHO

Ada County

Boise, *Boise Capitol Area District*, roughly bounded by 6th and Bannock, N 8th, 8th, State, 5th and Jefferson Sts. (5–12–76)

Bear Lake County

Saint Charles, *Nelson, Wilhelmina, House and Cabins*, U.S. 89 (5–3–76)

Canyon County

Nampa, *First Security Bank (Nampa Public Library)*, 101 11th Ave. S. (5–13–76)

Idaho County

Kamiah vicinity, *First Presbyterian Church*, U.S. 12, SE of Kamiah (5–13–76)

Owyhee County

Silver City vicinity, *Delamar Historic District*, 6 mi. W of Silver City (5–13–76)

Washington County

Weiser, *Knights of Pythias Lodge Hall*, 30 E. Idaho St. (5–13–76)

ILLINOIS

Cook County

Chicago, *Dearborn Station*, 47 W. Polk St. (3–26–76) HABS

Kane County

Aurora, *Fox River House*, 116 W. Galena, (5–4–76)

Macoupin County

Carlinville, *Carlinville Historic District*, roughly bounded by Oak, Mulberry, Morgan, and E. city limits (5–17–76)

INDIANA

Henry County

New Castle vicinity, *New Castle Archeological Site*, N of New Castle (4–26–76)

Steuben County

Angola, *Steuben County Jail*, 201 S. Wayne (4–2–76)

IOWA

Polk County

Des Moines, *Bankers Trust Building*, 605 Locust St. (4–22–76)

KANSAS

Greenwood County

Madison vicinity, *Leon Cone Site*, W of Madison (5–17–76)

Marion County

Marion vicinity, *Marion Archeological District*, N and S of Marion (4–21–76).

Pawnee County

Larned vicinity, *Lewis Site*, SW of Larned, off U.S. 56 (5–3–76).

Rice County

Saxman vicinity, *Saxman Site*, S of Saxman (5–3–76).

Saline County

Salina, *Prescott, John H., House*, 211 W. Prescott Ave. (5–17–76)

KENTUCKY

Adair County

Columbia vicinity, *Zion Meetinghouse and School*, SE of Columbia on KY 55 (5–13–76)

Boyle County

Danville vicinity, *Waveland (Willis Green House)*, S of Danville on Houstonville Pike (5–6–76).

Campbell County

Newport, *Bellevue (Gen. James Taylor House)*, 335 E. 3rd St. (4–22–76)

Clark County

Winchester vicinity, *Providence Baptist Church*, 6 mi. SW of Winchester off KY 627 (5–13–76).

Fayette County

Lexington, *Elsmere Park Historic District*, off N. Broadway, between W. 6th and 7th Sts. (4–26–76).

Lexington vicinity, *Hurricane Hall (Quarles-Thomson House)*, N of Lexington off U.S. 25 (4–22–76).

Lexington vicinity, *Lewis Manor*, NW of Lexington on Viley Rd. (4–26–76).

Franklin County

Frankfort, *Zeigler, Rev. Jesse R., House*, 509 Shelby St. (5–3–76).

Fulton County

Hickman, *Fulton County Courthouse*, off KY 94 (4–22–76).

Grayson County

Leitchfield, *Thomas, Jack, House*, 108 E. Main St. (4–21–76).

Jefferson County

Louisville, *Church of the Messiah (First Unitarian Church)*, 805 S. 4th St. (4–21–76).

Lee County

Beattyville, *St. Thomas Episcopal Church*, Hill St. (4–21–76).

Lincoln County

Shelby City vicinity, *Arcadia (Isaac Shelby, Jr., Plantation)*, S of Shelby City on U.S. 127 (5–4–76).

Shelby City vicinity, *Traveler's Rest (Gov. Isaac Shelby Plantation) and Cemetery*, S of Shelby City off KY 300 (5–3–76).

Stanford, *Lincoln County Courthouse*, Main and Lancaster Sts. (4–22–76).

Logan County

Russellville vicinity, *McGready, Rev. James, House*, W of Russellville off U.S. 68 (4–21–76).

Owen County

Owenton, *Owen County Courthouse and Jail*, N. Thomas and N. Madison Sts. (5–4–76).

Washington County

Springfield, *Pope, John, House*, 207 Walnut St. (5–13–76).

LOUISIANA

Avoyelles Parish

Mansura, *Des Fosse, Dr. Jules Charles, House*, L'Eglise St. (4–23–76).

MAINE

Androscoggin County

Auburn, *Little, Edward, House*, 217 Main St. (5–12–76).

Cumberland County

Scarborough, *Hunniwell, Richard, House*, W of Scarborough at Winnock's Neck and Old County Rds. (5–12–76).

Franklin County

Kingfield, *Winter, Amos G., House*, Winter's Hill off ME 27 (5–3–76).

York County

Kennebunkport, *Kennebunkport Historic District*, bounded roughly by South, Maine, North, and Lock Sts., and the Kennebunkport River (5–6–76).

MARYLAND

Charles County

Bryan's Road vicinity, *Marshall Hall*, 5 mi. N of MD 210 on MD 227 (5–12–76).

Howard County

Ellicott City vicinity, *Temora*, 4252 Columbia Rd. (4–30–76).

Kent County

Chestertown vicinity, *The Reward; Tilden's Farm*, S. of Chestertown, off MD 289 on Walnut Point Rd. (5–6–76).

Prince Georges County

Mitchellville, *Pleasant Prospect*, 12806 Woodmore Rd. (4–30–76).

St. Mary's County

Oakley vicinity, *The River View*, SE of Oakley on Burch Rd. (5–4–76).

Washington County

Hagerstown, *Western Maryland Railway Station*, Burhans Blvd. (4–22–76).

MASSACHUSETTS

Barnstable County

Brewster vicinity, *Dillingham House*, W of Brewster on MA 6A (4–30–76).

North Eastham vicinity, *French Cable Hut*, E of North Eastham at jct. of Cable Rd. and Ocean View Dr. (4–22–76).

Essex County

Danvers, *Putnam, Gen. Israel, House*, 431 Maple St. (4–30–76) HABS.

Gloucester vicinity, *Beauport*, Eastern Point Blvd. (4–26–76).

Marblehead, *Hooper, Robert "King," Mansion*, 8 Hooper St. (5–12–76) HABS.

Newburyport, *Superior Courthouse and Bartlett Mall*, bounded by High, Pond Auburn, and Greenleaf Sts. (4–30–76).

North Andover vicinity, *Kunhardt, George, Estate (Campion Hall)*, 1518 Great Pond Rd. (4–22–76).

Salem, *Derby Waterfront District*, Derby St. from Herbert St. to Block House Sq., waterfront sts. between Kosciusko and Blaney Sts. (5–17–76) HABS.

Salem, *Salem Common Historic District*, bounded roughly by St. Peter's, Bridge, and Derby Sts. and Collins Cove (5–12–76) HABS.

Hampden County

East Longmeadow, *Burt, Elijah, House*, 201 Chestnut St. (4–26–76).

Springfield, *McKnight District*, roughly bounded by Penn Central, State St., the Armory, and includes both sides of Campus Pl., and Dartmouth St. (4–26–76).

Springfield, *Maple-Union Corners*, 77, 83, 76–78, 80–84 Maple St. (4–26–76).

Springfield, *State Armory*, 29 Howard St. (5–3–76).

Springfield, *South Congregational Church*, 45 Maple St. (4–30–76).

Hampshire County

Northampton, *Northampton Downtown Historic District*, roughly bounded by Hampton, Pearl, Strong, Bedford, Elm, MA 66, and railroad tracks (5–17–76).

Northampton, *Smith Alumnae Gymnasium*, Smith College campus, Green St. (4–30–76).

Middlesex County

Cambridge, *Sands, Hiram, House*, 22 Putnam Ave. (4–30–76).

Lexington, *Follen Community Church*, 755 Massachusetts Ave. (4–30–76) HABS.

Lexington, *Lexington Green Historic District*, bounded by Massachusetts Ave., Bedford St., and Harrington Rd. (4–30–76) HABS.

Lexington, *Sanderson House and Munroe*

Tavern, 1314 and 1332 Massachusetts Ave. (4–26–76) HABS.
Lexington, *Stone Building*, 735 Massachusetts Ave. (4–30–76) HABS.
Medford, *Albree-Hall-Lawrence House*, 353 Lawrence Rd. (4–30–76) HABS.
Medford, *Fernald, George P., House*, 12 Rock Hill St. (4–30–76).
Newton, *Durant, Capt. Edward, House*, 286 Waverley Ave. (5–13–76) HABS.

Norfolk County

Cohasset, *Lothrop, Caleb House*, 14 Summer St. (5–3–76).
Randolph, *Belcher, Jonathan, House*, 360 N. Main St. (4–30–76).
Wellesley, *Eaton-Moulton Mill*, 37 Walnut St. (5–13–76).
Wellesley, *Wellesley Town Hall*, 525 Washington St. (4–30–76).

Plymouth County

Middleboro, *Peirce, Peter, Store*, N. Main and Jackson Sts. (4–30–76).
North Abington, *North Abington Depot*, Railroad St. (5–13–76).
Plymouth, *Bartlett–Russell–Hedge House*, 32 Court St. (4–30–76).

Worcester County

Barre, *Barre Common District*, bounded roughly by South, Exchange, Main, Pleasant, Broad, School, and Grove Sts. (5–4–76).
Charlton, *Spurr, John, House*, Main St. (4–26–76).
Shrewsbury, *Ward, General Artemas, Homestead*, Main St., opposite Dean Park (5–4–76).
Worcester, *Oxford-Crown Historic District*, roughly bounded by Chatham, Congress, Crown, Pleasant, Oxford Sts. and Oxford Pl. (5–6–76).
Worcester, *Paine, Timothy, House*, 140 Lincoln St. (4–30–76).

MICHIGAN

Antrim County

Elk Rapids, *Hughes House*, 19 Elm St. (5–6–76).

Ingham County

Lansing, *North Lansing Historic Commercial District*, E. Grand River Ave. and Turner St. (4–30–76).

Wayne County

Detroit, *Farwell Building*, 1249 Griswold St. (4–30–76).

MINNESOTA

Chisago County

Franconia, *Munch, Paul, House*, block 21, lots 1 and 2 (5–4–76).

Nicollet County

St. Peter, *Old Main–Gustavus Adolphus–College*, Gustavus Adolphus College Campus (5–12–76).

MISSISSIPPI

Alcorn County

Corinth, *Battle of Corinth, Confederate Assault Position*, Shiloh Rd. (4–30–76).

Hinds County

Jackson, *Smith Park Architectural District*, irregular pattern along N. West and N. Congress Sts. between Capitol St. and State Capitol (4–23–76).

Leflore County

Money vicinity, *Lane's Chapel Site*, NW of Money on the Tallahatchie River (5–4–76).
Whaley vicinity, *Neill Archeological Site*, W of Whaley (4–26–76).

Oktibbeha County

Starkville vicinity, *Lyon's Bluff Site*, N of Starkville (4–22–76).

MISSOURI

St. Louis County

Florissant, *Aubuchon, Baptiste G., House*, 450 rue St. Jacques (5–6–76).

NEVADA

Ormsby County

Carson City vicinity, *Raycroft Ranch*, N of Carson City, on U.S. 395 (5–4–76).

NEW HAMPSHIRE

Cheshire County

Keene, *Dinsmoor-Hale House*, Main and Winchester Sts. (4–26–76).
Keene, *Elliot House*, 305 Main St. (4–30–76).
Keene, *Fiske, Catherine, Seminary for Young Ladies*, 251 Main St. (5–3–76).

NEW JERSEY

Burlington County

Crosswicks, *Crosswicks*, roughly bounded by Bordertown-Crosswicks and Ellisdale Rds. and Buttonwood, Front, and Main Sts., and Ward Ave. (5–3–76).

Cumberland County

Bridgeton, *Seeley, Samuel W., House*, 274 E. Commerce St. (5–13–76) HABS.

Gloucester County

Gibbstown, *Nothnagle, C. A., Log House*, Swedesboro–Paulsboro Rd. (4–23–76) HABS

Passaic County

Wayne, *Ailsa Farms (Haledon Hall)*, 300 Pompton Rd. (4–30–76)

Salem County

Salem vicinity, *Brick, Richard, House*, NE of Salem off NJ 45 on Compromise Rd. (5–13–76)

NEW MEXICO

Catron County

Horse Springs vicinity, *Bat Cave*, S of Horse Springs (4–23–76)

NEW YORK

Rockland County

West Haverstraw, *Fraser-Hoyer House*, Treason Hill, off U.S. 9W (4–22–76)

NORTH CAROLINA

Burke County

Morganton, *Gaither House*, 102 N. Anderson St. (4–23–76)

Chowan County

Edenton, *Albania*, U.S. 17 W of jct. with NC 32 (5–13–76)
Edenton vicinity, *Mulberry Hill*, SE of Edenton on SR 1114 (5–13–76) HABS
Somer vicinity, *Greenfield Plantation*, E of Edenton on SR 1109 (5–6–76)

Cumberland County

Fayetteville, *First Presbyterian Church*, Ann and Bow Sts. (4–30–76) HABS

Forsyth County

Winston-Salem, *Shell Service Station*, Sprague and Peachtree Sts. (5–13–76) HAER
Winston-Salem vicinity, *Bethania Historic District*, N of Winston-Salem on NC 65, SR 1611, 1628, and 1688 (5–3–76).

Mecklenburg County

Huntersville vicinity, *Davidson, Benjamin W., House*, W of Huntersville on S.R. 2138 (4–26–76)

Robeson County

Pembroke, *Old Main, Pembroke State University*, W of jct. of NC 711 and SR 1340 (5–13–76)

Rowan County

Mill Bridge vicinity, *Kerr Mill*, W of Mill Bridge, on Sloan Rd. S of NC 1768 (5–11–76).

Wake County

Zebulon, *Wakelon School (Zebulon Elementary School)*, Arendell St. (5–13–76)

Washington County

Skinnersville vicinity, *Rehoboth Methodist Church*, U.S. 64, E of Skinnersville (5–13–76)

OHIO

Ashland County

Hayesville, *The Hayesville Opera House*, 1 E. Main St. (5–6–76).

Butler County

Oxford, *Oxford Female Institute*, High St. and College Ave. (4–26–76)

Crawford County

Crestline vicinity, *Heckler Farmhouse*, N of Crestline off OH 61 on Oldfield Rd. (5–3–76).
Galion vicinity, *Hosford House*, 6288 Hosford Rd. (4–30–76)

Cuyahoga County

Berea, *Buehl House*, 118 E. Bridge St. (4–30–76)
Cleveland, *Forest City Brewery*, 6920–6922 Union Ave. (5–3–76).
Valley View, *Frazee, Stephen, House*, 7733 Canal Rd. (5–4–76).

Fairfield County

Lancaster, *Tallmadge-Mithoff House*, 720 Lincoln Ave. (5–6–76).
Rock Mill, *Rock Mill Covered Bridge*, SR 41 (4–26–76)

Franklin County

Groveport, *Groveport Log Houses*, Wirt Rd. (5–6–76).

Hamilton County

Cincinnati, *Spring Grove Cemetery*, 4521 Spring Grove Ave. (5–13–76)
Dunlap vicinity, *Colerain Works Archeological District*, W of Dunlap (4–26–76)

Huron County

Peru, *The Macksville Tavern*, Peru Hollow Rd. (5–3–76).

Lake County

Madison, *Winans, Dr. J. C., House*, 143 River St. (4–26–76)

Licking County

Granville, *St. Luke's Episcopal Church*, 111 E. Broadway St. (4–26–76) HABS

Lucas County

Toledo, *East Side Commercial Block*, 107–117 Main St. (5–3–76).
Toledo, *Secor Hotel*, 413–423 Jefferson Ave. (4–30–76)

Madison County

Plain City vicinity, *Cary Village Site* SE of Plain City (5–13–76)

Mahoning County

Poland, *Kirtland, Jared P., House*, 113 W. McKinley Way (5–13–76)

Medina County

Lodi vicinity, *Black River Viaduct, Baltimore and Ohio Railroad*, 1 mi. W of Lodi, off OH 421. (5–6–76)

Lodi vicinity, *Burr, George, House*, 740 Wooster Rd. (5–8–76).

Mercer County

Maria Stein vicinity, *Maria Stein Convent*, St. John's and Rolfes Rds. (5–6–76).

Montgomery County

Dayton, *Women's Christian Association*, 800 W. 5th St. (5–13–76)
Germantown, *Gunckel's Town Plan Historic District*, roughly bounded by Mulberry and Walnut Sts., and Warren and Market Sts. (includes properties on both sides of streets) (5–13–76)

Ottawa County

Port Clinton vicinity, *Mo-John, Betsy, Cabin*, 4 mi. E of Port Clinton, off OH 53 (5–6–76).

Pike County

Jasper, *Jones-Cutler House*, Bridge St. (4–26–76) HABS

Portage County

Palmyra, *Palmyra Center Hotel*, OH 225 and SR 18 (4–30–76)

Richland County

Bellville, *Gurney-Kochheiser House*, 174 Main St. (4–30–76)

Ross County

Chillicothe, *Macomb, Mary Worthington, House*, 490 S. Paint St. (4–26–76)

Summit County

Munroe Falls, *Thornton-Guise Kitchen and House*, 147 S Main St. (5–6–76)

OREGON

Multnomah County

Portland, *Paramount Theatre*, 1037 SW Broadway (4–22–76)

Tillamook County

Manzanita vicinity, *Wentz, Harry F., Studio/Bungalow*, N of Manzanita off U.S. 101 (4–22–76)

PENNSYLVANIA

Allegheny County

Pittsburgh, *Old Heidelberg Apartments*, Braddock Ave. at Waverly St. (5–4–76)
Pittsburgh, *Pennsylvania Railroad Station*, 1101 Liberty Ave. (4–22–76)
Pittsburgh, *Snyder, William Penn, House*, 852 Ridge Ave. (5–3–76).

Armstrong County

Dayton, *Marshall, Thomas, House*, State St. (4–22–76)

Chester County

Kimberton, *Kimberton Village Historic District*, both sides of Hares Hill Rd. between Kimberton and Cold Stream Rds. (5–6–76).
Phoenixville vicinity, *Fagley House*, W of Phoenixville on Art School Rd. (5–3–76).

Crawford County

Little's Corners, *Mosier, Dr. J. R., Office*, PA 198 (5–13–76)

Franklin County

Blue Ridge Summit, *Monterey Historic District*, off PA 16 (4–22–76)

Monroe County

Sciota vicinity, *Fenner–Snyder Mill*, U.S. 209, N of Sciota (5–13–76)

Montgomery County

Erdenheim, *Springfield Mill*, Northwestern Ave. between Germantown Ave. and Bethlehem Pike (5–13–76)

RHODE ISLAND

Providence County

East Providence, *Crescent Park Carousel*, Bullock's Point Ave. (4–21–76)
Pawtucket, *Pawtucket Post Office*, 56 High St. (4–30–76)

SOUTH CAROLINA

Calhoun County

St. Matthews vicinity, *Cherokee Path, Sterling Land Grant*, 5 mi. SE of St. Matthews on NC 6 (5–13–76)

Sumter County

Wedgefield vicinity, *Singleton's Graveyard*, off SC 261, 6 mi. S of Wedgefield (5–13–76)

SOUTH DAKOTA

Gregory County

Pickstown vicinity, *Fort Randall*, 3 mi. SW of Pickstown (4–22–76)

Lawrence County

Spearfish, *Episcopal Church of All Angels*, 129 W. Michigan (4–22–76)

TENNESSEE

Benton County

Camden vicinity, *Thompson, William, House*, S of Camden, off TN 69 (5–6–76).

Montgomery County

Clarksville, *Clarksville Architectural District*, Public Square, Legion, 3rd Franklin, Commerce Sts. (5–13–76).
Clarksville, *Clarksville Industrial District*, bounded by Washington St., Crossland Ave., the ICG RR. and the Cumberland River (4–30–76).
Clarksville, *First Presbyterian Church*, 213 Main St. (4–30–76).
Clarksville, *Madison Street Methodist Church*, 319 Madison St. (5–13–76).

TEXAS

Cameron County

Port Isabel, *Point Isabel Lighthouse*, off TX 100 (4–30–76) HABS.

Colorado County

Columbus vicinity, *Stafford, John, House*, S of Columbus on U.S. 71 (5–3–76).

Crockett County

Sheffield vicinity, *Live Oak Creek Archeological District*, about 10 mi. E of Sheffield (4–2–76) (also in Pecos and Terrell Counties).

El Paso County

El Paso, *Castner Range Archeological District*, U.S. 54 (4–22–76).
El Paso vicinity, *Hot Well Archeological Site*, 1 mi. S of Hot Well (4–30–76).

Galveston County

Galveston, *The McKinney-McDonald House*, 926 Winnie St. (5–4–76).

Harris County

Houston, *1879 Houston Waterworks*, 27 Artesian St. (5–6–76).

Uvalde County

Uvalde vicinity, *Leona River Archeological Site*, N of Uvalde (5–6–76).
Uvalde vicinity, *Taylor Slough Archeological Site*, 4 mi. NE of Uvalde off U.S. 83 (5–4–76).
Uvalde vicinity, *Willingham Site* (41 UV 47), N of Uvalde (4–26–76).

Victoria County

Victoria, *Victoria Grist Windmill*, Memorial Park in Victoria (4–30–76).

UTAH

Garfield County

Hanksville vicinity, *Starr Ranch*, 46 mi. S of Hanksville (4–23–76)

Iron County

Parowan, *Parowan Meetinghouse*, Ctr. block of Main St., between Center and 100 S. St. (5–6–76).

Millard County

Hinckley vicinity, *Gunnison Massacre Site*, 6 mi SW of Hinckley on the Sevier River (4–30–76).

Salt Lake County

Salt Lake City, *L.D.S. First Ward Meetinghouse*, 760 S. 8th E. (4–30–76).
Salt Lake City, *Wheeler, Henry J., Farm*, 6343 S. 900 St. (5–4–76).

Sanpete County

Fountain Green, *Olsen, Hans Peter House*, UT 11 (4–22–76).

VIRGINIA

Albemarle County

Charlottesville vicinity, *Blenheim*, S of Charlottesville on VA 727 (5–17–76).

Culpeper County

Brandy Station vicinity, *Farley*, N of Brandy Station on VA 679, S of Hazel River (5–6–76).

Dinwiddie County

McKenney vicinity, *Sappony Church*, S of Sappony Creek, off VA 692 (4–30–76) HABS.
Petersburg vicinity, *Burlington*, W of Petersburg, off VA 600 (4–30–76) HABS.

Floyd County

Floyd, *Floyd Presbyterian Church*, U.S. 221 (5–17–76).

Lynchburg (independent city)

Miller-Claytor House, Treasure Island Rd. at Miller-Claytor Lane (5–6–76).

Richmond (independent city)

Blues Armory, 6th and Marshall Sts. (5–17–76).
Wilton, S of Richmond, on N bank of James River (4–30–76) HABS.

Shenandoah County

Orkney Springs, *Orkney Springs Hotel*, VA 263, W of jct with VA 610 (4–22–76)

Surry County

Spring Grove vicinity, *Glebe House of Southwark Parish*, E of Spring Grove on VA 10 (5–17–76)

Winchester (independent city)

Kurtz, Adam, House (Washington's Headquarters), Braddock and Cork Sts. (5–17–76)

WASHINGTON

Asotin County

Asotin vicinity, *Snake River Archeologic District*, includes both banks of Snake River from Asotin to Oregon border (5–13–76)

Benton County

Richland vicinity, *Rattlesnake Springs Sites*, 25 mi. NW of Richland (5–4–76).
Richland vicinity, *Ryegrass Archeological District*, In Hanford Works Reservation, along Columbia River (1–31–76).

Jefferson County

Port Townsend vicinity, *Fort Flagler*, SE of Port Townsend on Marrowstone Is. (5–3–76).

King County

Seattle, *Hill, Samuel, House*, 814 E. Highland Dr. (5–3–76)

Seattle, *Rainier Club*, 810 4th Ave. (4–22–76)
Seattle, *Stimson-Green House*, 1204 Minor Ave. (5–4–76).
Seattle, *Triangle Hotel and Bar*, 551 1st. Ave. South (5–3–76).
Seattle, *Turner–Koepf House (Jefferson Park Ladies Improvement Club)*, 2336 15th Ave., S (4–22–76)
Seattle, *Volunteer Park*, between E. Prospect and E. Galer Sts., and Federal and E. 15th Aves. (5–3–76).
Snoqualmie vicinity, *Snoqualmie Falls Cavity Generating Station*, N of Snoqualmie on Snoqualmie River (4–23–76)

Pacific County

Oysterville, *Oysterville Historic District*, WA 103 (4–21–76)

Pierce County

Tacoma, *Northern Pacific Office Building*, NE corner of 7th St. and Pacific Ave. (5–4–76).

Skagit County

Concrete vicinity, *Baker River Bridge*, on WA 20, over Skagit River (5–4–76).

Snohomish County

Marysville vicinity, *Indian Shaker Church*, W of Marysville, Tulalip Reservation, N. Meridian Ave. (5–4–76)
Marysville vicinity, *Tulalip Indian Agency Office*, 3901 Mission Beach Rd., Tulalip Reservation (5–3–76).

Wahkiakum County

Skamokawa, *Skamokawa Historic District*, WA 4 (4–21–76)

Whitman County

Rosalia vicinity, *Steptoe Battlefield Site*, SE of Rosalia (5–6–76).

WEST VIRGINIA

Greenbrier County

Lewisburg vicinity, *Arbuckle, Alexander W., I, House (Baker, Michael, House)*, 2 mi. N of Lewisburg on Arbuckle Lane (5–3–76).

Monroe County

Union vicinity, *Elmwood (Hugh Caperton House)*, N of Union off U.S. 219 (5–13–76)

Pendleton County

Petersburg vicinity, *Old Judy Church*, about 10 mi. S of Petersburg on U.S. 220 (5–13–76)

Pocahontas County

Marlinton, *Hunter, Frank and Anna, House*, U.S. 219 (5–13–76)

WISCONSIN

Juneau County

Mauston, *Boorman, Benjamin, House, The*, 211 North Union St. (5–4–76)

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The following is a list of corrections to properties previously listed in the "Federal Register":

ARIZONA

Maricopa County

Phoenix, *Rosson, Dr. Roland Lee, House*, 139 N. 6th St. (6–3–71) HABS

MASSACHUSETTS

Middlesex County

Waltham, *The Vale (Theodore Lyman Estate)*, Lyman and Beaver Sts. (12–30–70) NHL

NEBRASKA

Hall County

Grand Island, *Stolley Homestead/Site of Ft. Independence*, Stolley Park (3–16–72) (formerly listed as Stolley State Park Historic District)

* * * * *

The following properties have been either demolished or removed from the National Register of Historic Places.

CALIFORNIA

Orange County

Santa Ana, *Howe-Waffle House and Carriage House*, 702 Bush St.

MARYLAND

Baltimore (independent city)

St. Mary's Seminary Building, 600 N. Paca St.

* * * * *

The following property was omitted from the February 10, 1976, listing of properties in the "Federal Register."

NEW YORK

Clinton County

Adirondack Forest Preserve (also in Essex, Franklin, Fulton, Hamilton, Herkimer, St. Lawrence, and Warren Counties) (5–23–63)

* * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I–459–4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

ALASKA

Northwestern District

Little Diomede Island, *Iyapana, John, House.*

ARIZONA

Apache County

Flattop Site, Petrified Forest National Park,
Newspaper Rock Petroglyphs Archeological District, Petrified Forest National Park.
Puerco Ruin and Petroglyph, Petrified Forest National Park.
Twin Buttes Archeological District, Petrified Forest National Park.
Grand Canyon National Park, *Old Post Office.*

Coconino County

House Rock Springs, Upper Houserock Valley
Paria Plateau Archeological District

Graham County

Foote Wash—No Name Wash Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir No. 1, Site NA 13,257.*
Colorado City vicinity, *Short Creek Reservoir No. 1, Site 13,258.*

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Skunk Creek Archeological District.

Navajo County

Painted Desert Petroglyphs and Ruins Archeological District, Petrified Forest National Park.
Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Armory Park Historic District.*
Tucson, *Convento Site.*
Tucson vicinity, *Old Santan*, NW of Tucson.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, *Southern Pacific Depot.*

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites *3VB49–3VB51*, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Point Lobos Archeological Sites, Golden Gate National Recreation Area.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoney ford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld–58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites, Sierra National Forest.
Muir Hut, Kings Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction project.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.

Lassen County

Archeologocial Site HJ–1.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475, 491, 492, and 493.

Madera County

CA–MAD 176–185, Lower China Crossing, and New Site, in Hidden Dam-Hensley Lake Project Area, Fresno River.

Marin County

Point Reyes, *Olena Lime Kilns*, Point Reyes National Sea Shore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4–Nap–14, 4–Nap–261, Napa River Flood Control Project.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Alcatraz.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa–1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ–5 (Border Site 26WA–1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Farrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabin, Sequoia National Park.
Quinn River Station Tharp's Log Smithsonian Institution Shelters Squatter's Cabin.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Site 5–LR–257, Boxelder Watershed Project.

CONNECTICUT

Fairfield County

Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Hartford, *Colt Factory Housing*, Huyshope Ave., between Sequassen and Weehasset Sts.
Hartford, *Colt Factory Housing (Potsdam Village)*, Curcombe St. between Hendriexsen Ave. and Locust St.
Hartford, *Colt Park*, bounded by Wethersfield Ave., Stonington, Wawarme, Curcombe, and Marseek Sts,, and by Huyshope and Van Block Aves.
Hartford, *Colt, Col. Samuel, Armory, and related factory buildings*, Van Dyke Ave.
Hartford, *Flat-Iron Building (Motto Building)*, Congress St. and Maple Ave.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97–81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

Middlesex County

Middleton, *Mather - Douglas - Santangelo House*, 11 S. Main St.

New London County

New London, *Williams Memorial Institute Building*, 110 Broad St.

DELAWARE

Sussex County

Lewes, *Delaware Breakwater.*
Lewes, *Harbor of Refuge Breakwater.*

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, 516 Ott Street.
Savannah, 908 Wheaton Street.
Savannah, 914 Wheaton Street.
Savannah, 920 Wheaton Street.
Savannah, 928 Wheaton Streat.
Savannah, 930 Wheaton Street.

Chatooga County

Archeological Sites in area of Structure 1–M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area*.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Augusta, *Blanche Mill*.
Augusta, *Enterprise Mill*.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail*.

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W. of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15*, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp*.

Lewis County

Jacques Spur vicinity, *St. Joseph's Mission (Slickpoo)*, S of Jacques Spur on Mission Creek off U.S. 95.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding*.
Lewiston, *Fix Building*, 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *McCarthy Building (Landfield Building)*, NE corner of Dearborn and Washington Sts.
Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.

Monroe County

Bloomington, *Carnegie Library*.

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

Muscatine County

Muscatine, *Clark, Alexander, Property*, 125–123 W. 3rd and 307, 309 Chestnut.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Louisa County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

MAINE

Washington County

Machiasport, *Libby Island Light Station*.

MARYLAND

Allegany County

Flintstone vicinity, *Martin-Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craghill Channel Upper Range Front Light*, on Chesapeake Bay.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.

Carroll County

Bridge No. 1–141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station*.
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light area.
Truro, *Highland House*, Cape Code Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Berkshire County

Adams, *Quaker Meetinghouse*, Maple Street Cemetery.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 27, 1.5 mi. NW of Rte. 126 Jct.

Worcester County

North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.

Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

Beltrami County

Blackduct, *Rabideau CCC Camp Site*, S. of Blackduct in Chippewa National Forest.

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Tishomingo County

Tennessee—Tombigbee Waterway

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W. Robidoux on S. 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Henry County

La Due, *Batschelett House*, near Harry S. Truman Dam and Reservoir.

MONTANA

Big Horn County

Fort Smith, *Big Horn Canal Headgate.*

Carbon County

Hardin, *Pretty Creek Site (Hough Creek Site)*, Big Horn Canyon National Recreation Area.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

NEVADA

Clark County

Indian Springs vicinity, *Tim Springs Petroglyphs*, N of Indian Springs.
Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.
Las Vegas vicinity, *Mormon Well Corral*, NE of Las Vegas.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669—26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

NEW HAMPSHIRE

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

NEW JERSEY

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*

Middlesex County

New Brunswick, *Delaware and Raritan Canal*, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1–9 New Ocean Ave.

Sussex County

Old Mine Road Historic District (also in Warren County).

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Lea County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*

Bronx County

New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Loomis Archeological Site, South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.

New York County

New York, *Harlem Courthouse*, 170 E. 121st St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.
Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.

Saratoga County

Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District*, between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site.*
New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.

NORTH CAROLINA

Alamance County

Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston*, Moore St.

Caswell County

Archeological Sites CS–12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hosital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Durham County

Durham, *St. Joseph's A.M.F. Church*, Fayetteville St. at the Durham Expwy.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 mi. NW of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Warren County

Corwin, *Shaffer Mound*, S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, Camp Comanche Site, E range on Cache Creek.
Fort Sill, *Chiefs Knoll, Post Cemetery*, N of

Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir Area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yakuina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901–1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettsysburg National Military Park.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and* Store, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Dauphin County

Middletown, *Swatara Ferry House (Old Fort)*, 400 Swatara, St.

Delaware County

I 476 Historic Sites (20 Historic Sites) Mid-County Expwy. (also in Montgomery County.)

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank* Bldg 13N., Main St.

Lehigh County

Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.

Philadelphia County

Philadelphia, *Bridge on "I" Street*, over Tacony Creek.
Philadelphia, *Tremont Mills*, Wingonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Cross Creek Village, Cross Creek watershed.
Somerset Township, *Wright No. 22 Covered Bridge.*

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Trousdale County

Dixon Springs, *McGee House.*

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George, House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Karrick Building (Leyson-Pearsoil Building)*, 236 S. Main St.
Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Windsor County

Windsor, *Post Office Building.*

WASHINGTON

Benton County

Richland vicinity, *Hanford Island Archeological Site*, 18 mi. N of Richland.
Richland vicinity, *Hanford North Archeological District*, 22 mi. N of Richland.
Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Snively Canyon Archeological District*, 25 mi. NW of Richland.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Clallam County

Cape Alava vicinity, *White Rock Village Archeological Site*, S of Cape Alava.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

Franklin County

Richland vicinity, *Savage Island Archeological District*, 15 mi. N of Richland.

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 45SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station.*

WEST VIRGINIA

Cabell County

Huntington, *Old Bank Building*, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House*, 439 B St.

Ohio County

Wheeling, *B & O Railroad Freight Station and Train Shed.*

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

Fond du Lac County

Fond du Lac, *Aetna Station No. 5*, 193 N. Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

WYOMING

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Natrona County

Casper, *Cantonment Reno.*
Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.76-15811 Filed 5-28-76;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 21, 1976. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by June 7, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Colbert County

Tuscumbia vicinity, *The Oaks (Abraham Ricks House)*, SE of Tuscumbia off AL 157 on Ricks Lane

Franklin County

Russellville vicinity, *Alabama Iron Works*, S of Russellville off U.S. 43

ALASKA

Aleutian Islands Division

Unalaska vicinity, *Sitka Spruce Plantation*, Amaknak Island, Dutch Harbor

Bristol Bay Division

Kanatak vicinity, *Archeological Site 40 Af 3*, N of Kanatak on Katmai National Monument
Kanatak vicinity, *Archeological Site 40 Mk 10*, N of Kanatak on Katmai National Monument
Kanatak vicinity, *Kaguyak Village Site*, N of Kanatak on Kanatak on Katmai National Monument
Kanatak vicinity, *Takli Island Archeological District*, N of Kanatak on Katmai National Monument
Naknek vicinity, *Brooks River Archeological District*, E of Naknek on Katmai National Monument
Naknek vicinity, *Old Savonoski*, E of Naknek on Katmai National Monument
Naknek vicinity, *Savonoski River Archeological District*, E of Naknek on Katmai National Monument

Kenai-Cook Inlet Division

Homer vicinity, *Cottonwood Creek Archeological Site*, NE of Homer on Kachemak Bay

Southeast Fairbanks Division

Big Delta, *Rika's Landing Site*, Mile 252, Old Richardson Highway

Upper Yukon Division

Arctic Village, *Mission Church*, E fork Chandalar River

ARIZONA

Cochise County

Douglas, *Grand Theatre*, 1139-1149 G Avenue

Pima County

Tucson, *El Presidio Historic District*, lies between W. Alameda, W. 6th, N. Stone, and I-10

ARKANSAS

Polk County

Mena vicinity, *State Line Marker*, 17 mi. NW of Mena at jct. of OK 1 and AR 88

CALIFORNIA

Los Angeles County

San Pedro, *S.S. Catalina*, Berth 96, Los Angeles Harbor

Mendocino County

Fort Bragg, *Weller House*, 524 Stewart St.

San Francisco County

San Francisco, *Point Lobos Archeological Sites*, Point Lobos

Siskiyou County

Sawyers Bar, *St. Joseph's Catholic Church*, Klamath National Forest

Tuolumne County

Sonora, *Tuolumne County Jail*, 156 W. Bradford St.

COLORADO

Mineral County

Creede vicinity, *Wagon Wheel Gap Railroad Station*, SE of Creede at Wagon Wheel Gap, off CO 149

Pueblo County

Pueblo, *Quaker Flour Mill*, 102 S. Oneida St.

Yuma County

Wray vicinity, *Beecher Island Battleground*, 16.5 mi. SE of Wray on Beecher Rd.

DELAWARE

Kent County

Dover, *Dover Green Historic District*, bounded by North, South, and East Sts. and Grovernors Ave.
Masten's Corner *vicinity, Vogl House*, W of Masten's Corners on CR 78

New Castle County

Wilmington, *Rockwood*, 610 Shipley Rd.

ILLINOIS

Cook County

Chicago, *Lakeview Historic District*, bounded roughly by Wrightwood, Lakeview, Sheridan, Belmont, Halsted, Wellington, Racine, and George
Chicago, *Nickerson, Samuel, House*, 40 E. Erie
Evanston, *Grosse Point Lighthouse*, 2535 Sheridan Rd.

Peoria County

Peoria, *West Bluff Historic District*, Randolph, High, and Moss, E of Western and parts of adjoining Sts.

Pope County

Golconda, *Golconda Historic District*, IL 146

IOWA

Blackhawk County

LaPorte City, *Laporte Town Hall*, 413 Chestnut

Floyd County

Charles City, *Central Park-North Main Street Historic District*, N. Main St. from Riverside to Blunt St., N. Jackson from Kelly to Blunt St.

Madison County

Winterset, *Bevington, C. D., House and Stone Barn*, 805 S. 2nd Ave.

Pottawattamie County

Council Bluffs, *Beresheim, August, House*, 621 3rd St.

Scott County

Long Grove, *Brownlie, Alexander, House*, 206 Pine St.

Warren County

Indianola vicinity, *Polled Hereford Breed Origin Site*, SW of Indianola off U.S. 65

Webster County

Fort Dodge, *Corpus Christi Church*, 416 N 8th St.

KENTUCKY

Fayette County

Lexington vicinity, *Fairlawn (Greentree)*, 6 mi. NE of Lexington on U.S. 68

Madison County

Richmond vicinity, *Bogie Houses and Mill Site*, about 8 mi. W of Richmond

Robertson County

Mt. Olivet vicinity, *Johnson Creek Covered Bridge*, NE of Mt. Olivet on Ky 1029

Spencer County

Taylorsville vicinity, *Beechland (Jacob Yoker House)*, 2.5 mi. N of Taylorsville

MAINE

Sagadahoc County

Georgetown vicinity, *Seguin Island Light Station*, S of Georgetown

MARYLAND

Cecil County

Rising Sun vicinity, *West Nottingham Meetinghouse*, SW of Rising Sun at jct. of Cox and Cowen Rds.

Rising Sun vicinity, *East Nottingham Friends Meetinghouse (Brick Meetinghouse)*, E of Rising Sun at jct of MD 272 and MD 273

Charles County

La Plata, *La Grange*, MD 6, 0.5 mi. W of U.S. 301

MASSACHUSETTS

Barnstable County

North Truro vicinity, *Pilgrim Spring Archeological Site*, N of N. Truro on Cape Cod National Seashore

MICHIGAN

Tuscola County

Mayville, *Randall House*, 5927 Treasurer Rd.

MISSISSIPPI

Adams County

Natchez, *The Elms*, 215 S. Pine St.

MISSOURI

Greene County

Springfield, *Day House*, 614 South St.

Springfield, *Landers Theater*, 311 E. Walnut

Ripley County

Doniphan, *Barrett, Randolph Columbus, House*, 209 Plum Street

Doniphan, *Ripley County Courthouse*, Courthouse Circle

NEBRASKA

Gage County

Filley vicinity, *Filley, Elijah, Stone Barn*, S of Filley off U.S. 136

Saunders County

Ashland vicinity, *Beetison, Israel, House*, SE of Ashland

NEW HAMPSHIRE

Cheshire County

Marlborough vicinity, *Rhodes Tavern*, SW of Marlborough on Hill St.

Winchester vicinity, *Coombs Covered Bridge*, N of Winchester off NH 10

Coos County

Columbia, *Columbia Covered Bridge*, U.S. 3

Lancaster vicinity, *Mount Orne Covered Bridge*, SW of Lancaster off NH 135

Grafton County

Bath, *Bath Covered Bridge*, off U.S. 302/NH 10

Bath vicinity, *Swiftwater Covered Bridge*, S of Bath on Valley Rd.

Woodsville, *Haverhill-Bath Covered Bridge*, NH 135

Merrimack County

Bradford, *Bement Covered Bridge*, Center Rd.

Warner, *Dalton Covered Bridge*, Joppa Rd.

Waterloo, *Waterloo Covered Bridge*, Newmarket Rd.

W. Hopkinton, *Rowell's Covered Bridge*, Clement Hill Rd.

Sullivan County

Cornish City vicinity, *Cornish–Windsor Covered Bridge*, NH 12A W of Cornish City

Newport vicinity, *Corbin Covered Bridge*, NW of Newport off NH 10

NEW MEXICO

Bernalillo County

Albuquerque, *First Methodist Episcopal Church*, 3rd and Lead Ave.

NEW YORK

Cortland County

Homer, *Lenticular Truss Bridges*, Wall St., Water St., and Pine St.

Solon, *Hatheway Homestead*, NY 41

Onondaga County

Syracuse vicinity, *Alvord House*, N of Syracuse on Berwick Road

Westchester County

New Rochelle, *Leland Castle*, 29 Castle Place

NORTH CAROLINA

Buncombe County

Asheville, *Asheville City Hall*, City/County Plaza.

Asheville, *Church of St. Lawrence*, 97 Haywood St.

Asheville, *First Baptist Church*, Oak and Woodfin Sts.

Asheville, *S & W Cafeteria*, Patton Ave.

Burke County

Morganton vicinity, *Forney, Jacob Jr., House*, NNW of Morganton

Caswell County

Milton vicinity, *Longwood*, SW of Milton on NC 62

Gaston County

Gastonia vicinity, *Wilson, William J., House*, S of Gastonia off SR 1109

Halifax County

Roanoke Rapids and vicinity, *Roanoke Canal*, Roanoke Rapids SE to Weldon

Surry County

Rockford, *Rockford Historic District*, SR 2221

OKLAHOMA

Cherokee County

Tahlequah, *Indian University*, 320 Academy

Comanche County

Lawton, *Carnegie Library*, B Ave. and 5th St.

Oklahoma County

Oklahoma City, *Colcord Building*, Robinson and Sheridan

RHODE ISLAND

Providence County

Providence, *Butler Hospital*, 333 Grotto Ave.

Providence, *Dexter, Jeremiah, House*, 957 N. Main St.

SOUTH CAROLINA

Charleston County

Charleston, *St. Mary's Roman Catholic Church*, 93 Hasell St.

Kershaw County

Camden vicinity, *Wateree Archeological District*, W and S of Camden

Oconee County

Westminster, *Southern Railway Passenger Station*, 129 Main St.

Orangeburg County

Eutawville vicinity, *Rocks Plantation*, 7 mi. NE of Eutawville off NC 6

Spartanburg County

Spartanburg, *Bon Haven (John B. Cleveland House)*, 728 N. Church St.

Spartanburg, *Duncan, Bishop William Wallace, House*, 249 N. Church St.

UTAH

Sevier County

Salina vicinity, *Nawthis Village Site*, S of Salina on Fishlake National Forest

VERMONT

Chittenden County

Burlington, *Carnegie Building of the Fletcher Free Library*, College and S. Winooski Ave.

Rutland County

Poultney, *Poultney Central School*, Main Street

[FR Doc.76–15810 Filed 5–28–76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76–439]

J. & M. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §861(c) (1970), J. & M. Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Nos. 1 and 2 Mines, Campbell County, Tennessee.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

The proposed modification applies to all the mining machines in operation in the subject mines. The coal seams in the mines range in height from 20 to 28 inches. Due to the low ceilings in the mines, the installation of canopies on the mining machines would be impractical and would, in fact, create hazards.

The installation of canopies would require the operator of the equipment to lean out of his machine in order to achieve proper vision. By leaning out of the machine the operator would expose himself to additional hazards. For this reason, Petitioner requests a waiver of the application of section 75.1710 to the foregoing mines.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 1, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

MAY 24, 1976.

[FR Doc.76–15711 Filed 5–28–76;8:45 am]

[Docket No. M 76–434]

NATIONAL MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), National Mines Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its National Pocahontas Mine, Wyoming County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710–1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the acitve workings of each underground coal mine on and after January 1, 1973, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6 of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

(1) Petitioner respectfully requests the modification of the application of the mandatory safety standard 30 CFR 75.-1710–1(a) with respect to the subject mines for reason that the application of such standard will result in a reduction of safety to the miners.

(2) Petitioner avers that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Petitioner further avers that based upon its recent experience with presently available canopies, the use of these canopies results in a reduction of safety to the miners in the above-named mines. Petitioner's experience indicated the following:

(a) Petitioner operates in the Pocahontas No. 3 coal seam averaging from 36 to 46 inches in height and at present is operating mining equipment averaging 30 to 35 inches in height. The above-named equipment is the lowest available at the present for seams of this height.

(b) While canopies of the type specified had the necessary height clearance in some instances under normal mining conditions, the necessary clearance diminished to zero when rolls of frequent adverse conditions were encountered.

(c) When operating with the available canopies, the operator's vision is severely impaired to the point that operation of the equipment becomes hazardous to the operator and all other persons in the working area.

(d) Due to the combination of the severely limited vision and close confinement in the cab, apendages of the operator's body, such as his head and limbs hang out in such manner that they are in jeopardy of being crushed between the equipment and the coal rib.

(e) Ingress and egress from the cab is so limited that the operator is held captive and cannot escape when the action of the roof clearly would warrant a retreat.

(f) Because of close confinement in the cab and severely limited ingress to and egress from the canopies, it is felt that the operator will attempt to control the equipment from outside the protection of the canopies and in doing so creates the hazard of being crushed between the equipment and the rib.

(g) In case of machine malfunction, cable damage, or power failure of any kind, or in the event of a machine fire, the operators of the equipment would be held captive by the canopy for an indefinite period depending on the circumstances.

(h) The operators of this type of equipment are under fully supported roof at all times provided by an approved roof control plan. Such roof support is deemed satisfactory for all other personnel in the mine including the helpers on self-propelled electric face equipment such as the continuous miner and the roof bolter. The helpers and other supporting personnel freely move around adjacent to the equipment under the protection of the proper roof support. Hence, the addition of canopies of this type presently available rather than providing additional safety for the operator, introduces a dangerous instrument capable of inflicting serious bodily harm or death.

(i) We are using 36 to 48 inch resin type roof bolts. Previous company used conventional type bolts only.

(j) Due to rolls and adverse conditions, the canopies were constantly striking the roof bolts and were shearing or destroying the torque of the roof bolts on the section and reducing them to an inefficient state, thus exposing all employees to the hazard of a roof fall from damaged support.

(3) Petitioner avers that with respect to low-ceiling mines, the use of currently available canopies with mobile electric face equipment severely diminishes rather than increases the overall safety of the miners.

Petitioner refers the Secretary to West Virginia State Law, Chapter 22, Article 2, Section 28, which gives the Director of the West Virginia Department of Mines the authority to require in any coal mine

where the height of the coalbed permits that electric face equipment including shuttle cars, be provided with substantially constructed canopies or cabs to protect the miners operating such equipment from roof falls and from rib and face rolls. At the present, the Director has not required cabs or canopies on electric face equipment on coal producing sections having mining heights less than 60 inches.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 1, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

MAY 24, 1976.

[FR Doc.76-15712 Filed 5-28-76;8:45 am]

[Docket No. M 76-230]

WESTMORELAND COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861 (c) (1970), Westmoreland Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Wentz No. 2, Bullitt, Derby-Parsons, and No. 5 Mines, Wise County, Virginia.

30 CFR 75.1710 provides:

An authorized representatives of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunciton with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

Petitioner requests the modification of the application of the mandatory safety standard 30 CFR 75.1710-1(a) with respect to the subject mine for the reason that the application of such standard will result in a diminution of safety to the miners.

Petitioner avers that technology does not presently exist to enable it to equip its self-propelled electric face equipment with suitable canopies to protect and provide for the safety of the operators of said equipment. Petitioner further avers that based upon its recent experience with presently available canopies, the use of these canopies resulted in a diminution of safety to the miners in said mines. Petitioner's experience indicated the following:

(a) While canopies of the type specified had the necessary height clearance most of the time during mining under normal conditions, the necessary clearance diminished to zero when either the bottom or the full seam undulated or when rolls in the coal seam were encountered. While in such instances the operators of the equipment quite miraculously escaped harm, the further use of these canopies inevitably will cause injuries to the operators.

(b) When operating with the available canopies, the operator's vision is severely impaired to the point that operation of the equipment becomes hazardous to the operator and to all other persons in the working area.

(c) Due to the combination of the severely limited vision and close confinement in the cab, appendages of the operator's body, such as his hands or feet or his buttocks or head, hang out in such manner that they are in jeopardy of being crushed between the equipment, posts or the coal rib.

(d) Ingress to and egress from the cab is so limited that the operator is held captive, and cannot escape when the action of the roof clearly would warrant such retreat.

(e) Because of close confinement in the cabs, severely limited ingress to and egress from the cab under the canopies, and lack of vision, operators attempt to manipulate the controls from outside the equipment while standing between the equipment and the rib, thus incurring the risk of being crushed.

(f) In case of machine malfunction, cable damage, or power failure of any kind, the operators of the equipment may be held captive by the canopies for an indefinite period, depending on the circumstances.

(g) The operators of this type of equipment are under fully supported roof at all times provided by an approved full-roof bolting plan or a combination of roof bolts and posts. Such roof support is deemed satisfactory for all other personnel in the mine, including helpers on self-propelled electric face equipment, such as the continuous miner and the bolter. The helpers and other supporting personnel freely move around adjacent to the equipment under the protection of the proper roof support. Hence the addition of canopies of the type presently available rather than providing additional safety for the operators, introduces an instrument capable of inflicting serious bodily harm or death when visibility and the necessary clearance are reduced to zero.

(h) Cutting machine operators and continuous miner operators cannot see the last row of roof bolts because the canopies impair their vision; such operators may, as a result, inadvertently go inby supported roof.

(i) Cutting machine operators and continuous miner operators cannot see the cutter lines nor the cutter bar or cutter head due to impaired vision, and places may be cut too wide and off center thus weakening the roof and creating roof fall hazards.

(j) Technical support personnel from MESA, representatives of the miners, equipment operators, mine health and safety committees, and representatives of Petitioner have worked together to attempt to modify the canopies in order to comply with the regulation. Such modifications created additional hazards to the miners and resulted in a diminution in safety.

Petitioner avers that with respect to low-ceiling mines, the use of currently available canopies with mobile electrical face equipment severely diminishes rather than increases the overall safety of the miners.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 1, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

MAY 24, 1976.

[FR Doc.76-15710 Filed 5-28-76;8:45 am]

Office of the Secretary

DISASTER WARNINGS

Delegation of Authority

This Notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1). The Acting Secretary of the Interior has issued a new delegation of authority to the Director, Geological Survey regard-

ing disaster warnings for earthquake, volcanic eruptions, landslides, mudslides, or other geological catastrophes. Such authority was granted to the Secretary of the Interior by the Secretary of Housing and Urban Development (40 FR 52927, November 13, 1975) pursuant to Executive Order No. 11795 and the Disaster Relief Act of 1974 (PL 93-288).

The delegation of authority was issued by Department of the Interior Manual Release No. 1883 dated May 3, 1976, and is published in its entirety below. The numbering system shown is that of the Departmental Manual. Further information regarding the delegation of authority can be obtained from the Chief, Branch of Management Analysis, Administrative Division, Geological Survey, 12201 Sunrise Valley Drive, Reston, Virginia, 22092, telephone 703-860-7211.

Dated: May 24, 1976.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

DELEGATION—PART 220 GEOLOGICAL SURVEY

CHAPTER 8 DISASTER WARNINGS—220.8.1

.1 *Delegation of Authority.* Subject to the general policy guidance and coordination of the Assistant Secretary—Energy and Minerals, the Director, Geological Survey, is empowered to exercise the authority, functions and powers granted by Section 202 of the Disaster Relief Act of 1974 with respect to disaster warnings for an earthquake, volcanic eruption, landslide, mudslide or other geological catastrophe. This delegation is limited to that authority conferred upon the Secretary of the Interior by the Secretary, U.S. Department of Housing and Urban Development (40 F.R. 52927, November 13, 1975), pursuant to the authority of that Department conferred by Section 1 of the Executive Order entitled, "Delegating Disaster Relief Functions Pursuant to the Disaster Relief Act of 1974" (E.O. 11795, 39 F.R. 25939, July 11, 1974). Executive Order 11795 delegates to the Department of Housing and Urban Development the authority to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance.

[FR Doc.76-15705 Filed 5-28-76;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-12]

FIRST SAVINGS & LOAN ASSOCIATION, UVALDE, TEXAS

Approval of Conversion (Final Action)

MAY 21, 1976.

Notice is hereby given that on May 21, 1976, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 76-378, approved the application of First Savings and Loan Association, Uvalde, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: MAY 21, 1976.

By the Federal Home Loan Bank Board,

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-15816 Filed 5-28-76;8:45 am]

[No. AC-13]

PIONEER SAVINGS & TRUST ASSOCIATION ROSWELL, NEW MEXICO

Approval of Conversion (Final Action)

MAY 21, 1976.

Notice is hereby given that on May 21, 1976, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 76-379, approved the application of Pioneer Savings and Trust Association, Roswell, New Mexico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: MAY 21, 1976.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-15817 Filed 5-28-76;8:45 am]

FEDERAL MARITIME COMMISSION

INDIANA PORT COMMISSION AND CERES, INC.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, 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 June 21, 1976. Any person desiring a hearing on the proposed agreements 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 agreements (as indicated hereinafter) and the statement should indicate that this has been done.

John Hardy, Jr., Esquire, Patton, Boggs & Blow, 1200 Seventeenth Street, N.W., Washington, D.C. 20036.

Agreement No. T-3310, between the Indiana Port Commission (Port) and Ceres, Incorporated (Ceres), provides for the five-year lease (with a five-year renewal option) to Ceres of Transit Shed No. 2 at Burns Waterway Harbor together with the free, unimpeded and exclusive use of the wharfage and trucking concourse adjacent to the leased premises. The facility is to be operated as a ship, barge, railroad and truck terminal and warehouse. As compensation, the Port is to receive $100,000 annually. Ceres is also required to collect and pay to the Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff.

Agreement No. T-3311, also between the Port and Ceres, provides for the five-year lease (with two five-year renewal options) to Ceres of Outside Storage Area No. 2 (which consists of 4.36 acres) at Burns Waterway Harbor together with the free, unimpeded and exclusive use of the leased premises. The facility is to be operated as a ship, barge, railroad, and truck terminal and storage facility. As compensation, the Port is to receive $20,000 annually. Ceres is also required to collect and pay to the Port all dockage and wharfage charges and harbor dues as set forth in the Port's tariff. Agreement No. T-3311 is subject to a concurrent right of the Levy Corporation to use a portion of the leased premises until the Port makes other wharfage and dockage facilities available to the Levy Corporation elsewhere at the port.

By Order of the Federal Maritime Commission.

Dated: May 25, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-15856 Filed 5-28-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1596]

LASCO CONTAINER SERVICE, INC.

Order of Revocation

By letter dated April 26, 1976, Lasco Container Service, Inc., P.O. Box 4092, Jacksonville, Florida 32201, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1596 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 21, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Or-

der 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Lasco Container Service, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 6.01 (c) dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1596 issued to Lasco Container Service, Inc., be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1596 be and is hereby revoked effective May 21, 1976.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Lasco Container Service, Inc.

LEROY F. FULLER,
Director, Bureau of Certification & Licensing.

[FR Doc.76-15858 Filed 5-28-76;8:45 am]

[No. 76-30]

PAN AMERICAN HEALTH ORGANIZATION V. PRUDENTIAL LINES, INC.

Filing of Complaint

MAY 25, 1976.

Notice is hereby given that a complaint filed by Pan American Health Organization against Prudential Lines, Inc. was served May 25, 1976. The complaint alleges that complainant has been subjected to payment of charges for transportation in excess of those lawfully applicable in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter shall commence on or before November 25, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-15859 Filed 5-28-76;8:45 am]

[Independent Ocean Freight Forwarder License No. 1181]

VEN-AIR SERVICE, INC.

Order of Revocation

By letter dated April 27, 1976, Ven-Air Service, Inc., P.O. Box 371, Biscayne Annex, Miami, Florida 33152, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1181 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 24, 1976.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Ven-Air Service, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

IT IS ORDERED, that Independent Ocean Freight Forwarder License No. 1181 issued to Ven-Air Service, Inc. be returned to the Commission for cancellation.

IT IS FURTHER ORDERED, that Independent Ocean Freight Forwarder License No. 1181 be and is hereby revoked effective May 24, 1976.

IT IS FURTHER ORDERED, that a copy of this Order be published in the FEDERAL REGISTER and served upon Ven-Air Service, Inc.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.76-15857 Filed 5-28-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2000]

POWER AUTHORITY OF THE STATE OF NEW YORK

Order Granting in Part and Denying in Part Applications for Exemption From Annual Charges

MAY 17, 1976.

The Power Authority of the State of New York (PASNY) has applied for exemption from payment of annual charges for calendar years 1962 through 1974 for its St. Lawrence River Project No. 2000. The applications were filed pursuant to the terms of Section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) and the Commission's Rules and Regulations thereunder.

PASNY initially requested total exemption from annual charges for its St. Lawrence River Project No. 2000. However, by letter dated March 1, 1966, PASNY stated that it no longer claimed total exemption for Project No. 2000 but it did request partial exemption for the power used for state or municipal purposes in 1962, 1963 and 1964. PASNY has continued to request partial exemption for Project No. 2000 for each subsequent year.

BACKGROUND

The St. Lawrence River Project No. 2000, licensed on July 15, 1953,[1] has 16 generating units of 57,000 kilowatts (kW) each for a total of 912,000 kW. Its total authorized installed capacity is 1,216,000 horsepower (hp). The last generating unit was placed in service in July 1959.

Following the receipt of billing for annual charges for 1958, PASNY made several applications beginning on April 30, 1959, for total exemptions from such charges on the following grounds: (1) the project was primarily intended to improve navigation; (2) that all power produced by PASNY either was used for State or municipal purposes or was sold to the public without profit for the years 1958 through 1961; and (3) the project was under construction during the years 1958 through 1960.

After a hearing and decision rendered by an Examiner, the Commission denied both PASNY claims for total exemption for the period July 17, 1958, through December 31, 1961.[2] An exemption in the amount of $9,621.70 was allowed. PASNY's application for rehearing was denied.[3]

In *Power Authority of the State of New York* v. *Federal Power Commission*, 339 F. 2d 269 (2d Cir. 1964), certiorari denied, 381 U.S. 933 (1965), the Court of Appeals affirmed the Commission's order holding that there was substantial evidence to support the Commission's findings that the project works constructed by PASNY were not primarily intended to improve navigation. The Court also agreed with the Commission that PASNY's sales of power were for profit for the years claimed.

APPLICABLE SECTIONS OF ACT, REGULATIONS, AND LICENSE

Among the terms and conditions of the license for Project No. 2000 is an article providing for the payment of annual charges by PASNY to the United States.[4] The Commission's authority to include such terms and conditions in a license derives from Section 10(e) of the Federal Power Act (Act),[5] which requires,

[1] Opinion No. 255, St. Lawrence River Project No. 2000, Power Authority of the State of New York, 12 F.P.C. 172 (1953), aff'd *sub nom Lake Ontario Land Development, and Beach Protection Association, Inc.* v. *F.P.C., et al.*, 212 F. 2d 227 (D.C. Cir. 1954), cert. den. 347 U.S. 1015 (1954).

[2] Opinion And Order Granting In Part And Denying In Part Exemptions From Payment Of Anual Charges, Power Authority of the State of New York, Project No. 2000, 31 FPC 93 (1964).

[3] Order Rejecting Application For Rehearing, Power Authority of the State of New York, Project No. 2000, 31 FPC 467 (1964).

[4] Applicable License Article for Project No. 2000 is: Article 27. The Licensee shall pay to the United States the annual charges: For the purpose of reimbursing the United States for the costs of administration of Part 1 of the Act, a reasonable annual charge in accordance with the provisions of Part 11 of the Commission's Regulations (18 C.F.R. 11.20(b)). The authorized installed capacity for such purpose is 1,216,000 horsepower. (24 FPC 404)

[5] Section 10. All licenses issued under this Part shall be on the following conditions: (e) That the licensee shall pay to the United States reasonabe annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of the administration of this Part; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as herein provided is reached, and in fixing such charges the Commission shall seek to avoid increasing the price to the consumers of power by such charges, and any such charges may be adjusted from time to time by the Commission as conditions may require: * * *

inter alia, any Licensee to pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of reimbursing the United States for the costs of administering Part 1 of the Act.

Section 10(e) of the Act also provides for exemption from payment of annual charges for those projects constructed by states or municipalities meeting certain requirements.[6] PASNY has requested, in part, such exemption from payment of annual charges pursuant to that part of Section 10(e) which provides that "licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit."

Pursuant to the provision of Section 309 of the Act, we have adopted and promulgated rules and regulations implementing the statutory provisions of the Act. With regard to the establishment and billing of annual charges to municipal and State Licensees to reimburse the Commission for administration of Part 1 of the Act, Section 11.20(b)(2) of the Commission's Regulations states:

> For each calendar year such total actual cost of administration as determined under subparagraph (1) of this paragraph shall be assessed against each such licensee in the proportion that the authorized horsepower installed capacity of each such project bears to the total such capacity under all such outstanding licenses.

Section 11.24 of the Commission's Regulations list those criteria which are applicable in granting exemptions from payment of annual charges to State or municipal licensees. In applying these criteria to Project No. 2000, we can make a determination as to whether PASNY should be granted any exemptions as requested pursuant to Section 10(e) of the Act.

Past Billings

The Commission has billed PASNY annual administrative charges for each of the years PASNY has filed its application for exemption. These charges have been paid by PASNY for each of the respective years. The total amount billed from calendar year 1962 through calendar year 1974 excluding calendar year 1968 for the St. Lawrence River Project No. 2000 is $559,811.00.

Under Section 10(e) of the Act and Section 11.24 of the Regulations, any of the grounds for exemption, if established by a Licensee, would warrant the requested exemption. However, whether an exemption should be granted is a question of fact to be established by the Licensee. (18 CFR 11.24(e)).[7]

As previously noted, PASNY by letter dated March 1, 1966, released its claim for total exemption for its St. Lawrence River Project No. 2000 but did request partial exemptions for power used for state or municipal purposes in 1962, 1963 and 1964. PASNY has continued to request partial exemption for each year thereafter. The amount claimed by PASNY for Project No. 2000 and that computed by our Staff differs by $1,983.01 as shown on Table 1 (attached hereto). As discussed below, for the calendar years 1962 through 1974 excluding calendar year 1968 we have determined that PASNY is entitled to a refund for the exemptions claimed for Project No. 2000 totalling $10,230.74.

It should be noted that the 1968 charge and exemption for Project No. 2000 are not included in Table No. 1 nor in the above totals. PASNY was late in payment of the 1968 charges for both Project Nos. 2000 and No. 2216. In the case of Project No. 2000, a 5% penalty amounting to $1938.45 was added to the annual charge of $38,769 and was paid by PASNY. The exemption determined by Staff for 1968 amounted to $1,117.94. Since the exemption was not subject to penalty PASNY was entitled to a refund of 5% of $1,117.94 or $55.90. PASNY was refunded $1,173.84 and through oversight $39,533.61 (annual charge plus penalty less refund) was removed from "escrow" and entered into the general funds of the U.S. Treasury. Also through oversight, PASNY's payments for both 1970 and 1971 were credited to the general funds of the U.S. Treasury.

Discussion

Preliminarily, we would note that the Licensee's formal filings, FPC Form Nos. 94 and 12, and the applications were used in arriving at the computations that are later discussed. In addition, when computing the actual dollar figures allowed, the "exemption factor" was used. The "exemption factor" is the ratio of annual project net energy (gross energy minus losses and municipal uses) to project annual gross energy. This factor times the annual charges as billed equals the annual charges due and payable.

For the years 1964 through 1969, PASNY's claims for exemption identified allowable exemptable items on an item by item and a project by project basis. These items have been delineated in five general categories as shown in Table 1 attached hereto.

Commencing in 1970 and thereafter through 1974, PASNY ceased to identify allowable exemptable items and listed two items only ("Total Deliveries and Balance of Generation") upon which calculations for exemption were based. We do not regard this as sufficient justification to allow the exemptions as claimed.

It should also be noted that prior to 1970, the items claimed as exemptable could be identified in PASNY's annually filed Form 12 Power System Statements. Beginning in 1970, however, PASNY started to report Form 12 data on a system-wide basis and identification of exemptable items on a project by project basis, other than energy used for station purposes, became impossible.

By using a combination of the data reported on Form 12 and Form 94 (Application for Exemption), Staff was able to prorate and allow exemptions in a combined figure for transmission losses and losses unaccounted for. The basis for this prorating is shown in Table 2 attached hereto.

While Staff has performed the calculations and prorations as noted above, and exemptions are being accordingly allowed, it is noted that this burden initially rests with the Licensee. Hence, it it not intended that claims for exemptions in future years will be allowed unless such claims are fully and completely delineated and justified. It is further noted that PASNY not only has the same information available to Staff, the information is available to PASNY on a much more timely basis.

The Commission finds: (1) The Licensee is a municipality within the meaning of Section 3(7) of the Act, and is entitled to claim exemption from payment of annual charges under Section 10(e) of the Act.

(2) For its St. Lawrence River Project No. 2000, PASNY is exempted from the payment of annual charges for that power shown to be used for State and municipal purposes during the years 1962 through 1967 and 1969 through 1974, such exemption of annual charges amounting to $10,230.74.

(3) For its St. Lawrence Project No. 2000, the Licensee has not justified exemption from annual charges for the remaining portion of power available for sale in the years 1962 through 1967 and 1969 through 1974.

The Commission orders: (A) For its St. Lawrence River Project No. 2000, PASNY is exempted from the payment of annual charges for that amount of power used for State or municipal purposes for which PASNY was billed for the periods 1962 through 1967 and 1969 through 1974, such exemption amounting to $10,230.74.

(B) PASNY shall be refunded $10,230.74 from the amount held in the special deposit account as allowed under (A) above.

(C) The amount currently being held in special deposits for Project No. 2000 as of January 1, 1976, shall be released to the United States Treasury after payment of the refund in (B) above.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such application shall constitute acceptance of this order.

By the Commission.

Kenneth F. Plumb,
Secretary.

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[6] Section 10(e) * * * *Provided further*, That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation, licenses therefor shall be issued without charge; * * *."

[7] See also, Central Nebraska Public Power & Irrigation District, 5 FPC 165, aff'd, *Central Nebraska Pub. P.I.* v. *F.P.C.*, 160 F. 2d 782 (9th Cir. 1947), cert. den. 332 U.S. 765 (1947); PASNY, 31 FPC. 93, aff'd, *PASNY* v. *F.P.C.*, 339 F. 2d 269 (2nd Cir. 1964), cert. den. 381 U.S. 833 (1965).

TABLE No. 1.—*Power authority of the State of New York, Project No. 2000—St. Lawrence project, annual charges exemptions calculations*

[All energy data is stated in megawatt hours]

	1962	1963	1964	1965	1966	1967	1969	1970	1971	1972	1973	1974	Totals
1. Gross generation	5,703,180	5,618,756	5,445,385	5,391,917	6,034,059	6,379,688	6,981,489	6,634,976	6,785,192	7,220,259	7,705,719	7,608,439	
2. Less exemptable energy [1]	169,393	128,153	137,839	92,500	137,745	181,432	105,500	84,158	86,346	103,133	87,049	110,562	
3. Net generation	5,533,787	5,490,603	5,307,546	5,299,417	5,896,314	6,198,256	6,875,989	6,550,818	6,698,846	7,117,126	7,618,670	7,497,877	
4. Annual charge paid by Power Authority of the State of New York	$38,810.00	$40,909.00	$45,050.00	$53,052.00	$39,811.00	$37,154.00	$37,499.00	$45,886.00	$39,008.00	$58,392.00	$50,594.00	$72,446.00	$550,811.00
5. Exemption factor (item 3 divided by item 1)	0.970298	0.977191	0.974687	0.982844	0.977172	0.971560	0.984888	0.987316	0.987274	0.985716	0.988703	0.985469	
6. Annual charge after exemption (item 4 multiplied item 5)	$37,675.27	$39,975.91	$44,494.46	$52,731.55	$38,902.19	$36,097.34	$36,932.32	$45,303.98	$38,511.58	$57,557.93	$50,022.44	$71,393.29	$549,580.26
7. Amount of exemption allowed	1,152.73	933.09	1,155.44	929.45	908.81	1,056.66	560.68	582.02	496.42	834.07	571.56	1,052.71	10,230.74
8. Amount of exemption claimed by Power Authority of the State of New York	1,058.44	807.12	1,034.03	757.49	796.11	879.16	874.92	857.94	714.35	1,288.12	1,212.48	1,933.60	12,213.7
9. Seaway, parks, and highway uses	6,059	6,212	6,129	6,226	5,783	6,163	5,472						
10. Transmission losses	111,842	70,387	87,712	44,737	89,884	142,772	84,142	[2] 68,130	[2] 70,182	[2] 87,599	[2] 72,889	[2] 97,824	
11. Losses unaccounted for	35,766	34,367	27,790	24,411	26,316								
12. Municipal uses						14,694	318						
13. Station uses	15,726	17,187	16,208	17,126	15,762	17,803	15,568	16,028	16,164	15,534	14,160	12,738	
14. Total exemptable energy	169,393	128,153	137,839	92,509	137,745	181,432	105,500	84,158	86,346	103,133	87,049	110,562	

[1] Exemptable energy, broken out by item, carried forward to item 2 above.
[2] See table No. 2 for these computations.

NOTE.—Calendar year 1968 is ommitted from this table—refer to discussion in body of accompanying order.

TABLE No. 2.—*Power Authority of the State of New York, project No. 2000—St. Lawrence project, proration of system transmission and unaccounted for losses*

	1970	1971	1972	1973	1974
1. System Generation (in megawatt hours):					
2. Project No. 2000 [1]	6,634,976	6,785,192	7,220,259	7,705,719	7,608,439
3. Project No. 2216 [1]	15,301,706	15,465,584	16,616,039	18,077,068	17,900,682
4. Project No. 2685 [1]	0	0	0	453,038	1,226,957
5. Nonproject [2] [3]	124,749	324,938	280,793	177,082	211,983
6. System total	22,061,431	22,575,714	24,117,091	26,412,907	26,948,060
7. Percent of system total generation for proration purposes:					
8. Project No. 2000 (line 2 divided by line 6)	30.0750	30.0653	29.9384	29.1740	28.2337
9. Project No. 2216 (line 3 divided by line 6)	69.3595	68.5054	68.8974	68.4402	66.4267
10. Project No. 2685 (line 4 divided by line 6)	0	0	0	1.7153	4.5530
11. Nonproject (line 5 divided by line 6)	.5655	1.4393	1.1642	.6705	.7866
12. Total	100.0	100.0	100.0	100.0	100.0
13. To be prorated:					
14. Transmission and unaccounted for losses [1]	226,533	233,508	292,598	249,842	346,479
15. Proration (carried to table No. 1, Line 10):					
16. Project No. 2000 (line 15 multiplied by line 9)	68,130	70,182	87,599	72,889	97,824
17. Project No. 2216 (line 15 multiplied by line 10)	157,122	159,964	201,593	170,992	230,155
18. Project No. 2685 (line 15 multiplied by line 11)	0	0	0	4,286	15,775
19. Nonproject (line 15 multiplied by line 12)	1,281	3,360	3,406	1,675	2,725
20. Total	226,533	233,508	292,598	249,842	346,479

[1] Source of data—FPC form 12. [2] Source of date—FPC form 94. [3] Purchases plus interchanges.

[FR Doc.76-15589 Filed 5-28-76;8:45 am]

[Docket Nos. CS76-751, et al.]

APPLICATIONS FOR "SMALL PRODUCER" CERTIFICATES [1]

MAY 20, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 14, 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS76-751	Apr. 19, 1976	Roger Adams, d.b.a. Adams Drilling, P.O. Box 368, Racine, Ohio 45771.
CS76-752	....do....	Paragon Resources, Inc., P.O. Box 1814, Shreveport, La. 71166.
CS76-753	....do....	Paramount Drilling Co., Inc., P.O. Box 1747, Shreveport, La. 71166.
CS76-754	....do....	Cooperative Oil Investments, Inc., P.O. Box 228, Spencer, W. Va. 25276.
CS76-755	....do....	Tom D. White Estate, P.O. Box 82, Midland, Tex. 79701.
CS76-756	....do....	Randolph Speight, P.O. Box 82, Midland, Tex. 79701.
CS76-757	....do....	Cheryl Derrick, P.O. Box 82, Midland, Tex. 79701.
CS76-758	....do....	Key Trust, 1st National Bank in Dallas, Trust Oil Department, P.O. Box 6031, Dallas, Tex. 75283.
CS76-759	....do....	Stag Oil Producers, Inc., 3029 Aspen Dr., Casper, Wyo. 82601.
CS76-760	Apr. 20, 1976	Donovan Maddox, P.O. Box 82, Midland, Tex. 79701.
CS76-761	....do....	Peter P. Hanagan, P.O. Box 82, Midland, Tex. 79701.
CS76-762	....do....	Briercrest Oil Co., P.O. Box 1110, Dalhart, Tex. 79022.
CS76-763	Apr. 21, 1976	Kenneth Nelson and Margaret Nelson, 7675 West 14th Ave., Lakewood, Colo. 80215.
CS76-764	Apr. 22, 1976	Willow Pipe Line Co., Route No. 5, Box 74, Norman, Okla. 73069.
CS76-765	Apr. 21, 1976	Energy Development Corp., P.O. Box 1183, Bluefield, W. Va. 24701.
CS76-766	....do....	Ellis Hnulik, 604 South 14th St., Artesia, N. Mex. 88210.
CS76-767	Apr. 22, 1976	Dora L. McKnight, estate of N. T. Lewis, P.O. Box 82, Midland, Tex. 79701.
CS76-768	....do....	Do.
CS76-769	....do....	Dora L. McKnight, P.O. Box 82, Midland, Tex. 79701.
CS76-770	....do....	New Mexico Western Minerals, Inc., P.O. Box 82, Midland, Tex. 79701.
CS76-771	....do....	J. L. Davis, an individual, 229 Western United Life Bldg., Midland, Tex. 79701.
CS76-772	Apr. 23, 1976	Frontier Pipeline Co., Inc., 49 Via Roma, Wichita, Kans. 67230.
CS76-773	Apr. 21, 1976	R. L. Taylor, 1206 Tower Petroleum Bldg., Dallas, Tex. 75201.
CS76-774	Apr. 23, 1976	James C. Roberts, 808 Beck Bldg., Shreveport, La. 71101.
CS76-775	....do....	Cactus Drilling Corp. of Texas, P.O. Box 1239, Richardson, Tex. 75080.
CS76-776	Apr. 26, 1976	Jeffrey R. Power, 74 Beach St., Cohasset, Mass. 02025.
CS76-777	....do....	Trio Petroleum Corp., Route 76, Box 35E, Glenville, W. Va. 26351.
CS76-778	....do....	J. Philip Boyle, Jr., et al., 2030 Liberty Tower, Oklahoma City, Okla. 73102.
CS76-779	Apr. 28, 1976	R. & S. Gas Co., Route 4, Box 36-13, Weston, W. Va. 26452.
CS76-780	....do....	William Quentin Pigford, 2370 Bellaire, Denver, Colo. 80207.
CS76-781	Apr. 29, 1976	OEHL, Inc., P.O. Box 961, Norman, Okla. 73070.
CS76-782	....do....	Joe L. Thompson, 2222 Liberty Tower, Oklahoma City, Okla. 73102.
CS76-783	....do....	E. W. Sauder, Box 731, Emporia, Kans. 66801.
CS76-784	....do....	Leonard T. May, 304B North Canyon, Carlsbad, N. Mex. 88220.
CS76-785	....do....	Roy G. Barton, P.O. Box 978, Hobbs, N. Mex. 88240.
CS76-786	Apr. 28, 1976	Ohrisman Drilling Co., P.O. Box 146, Gassaway, W. Va. 26624.
CS76-788	May 3, 1976	J. A. Daugherty, Box 1659, Midland, Tex. 79701.
CS76-789	....do....	Ethel Jo Davis, Box 1659, Midland, Tex. 79701.
CS76-790	....do....	D. H. Thornbury, Box 1659, Midland, Tex. 79701.
CS76-791	....do....	K. W. Davis, Jr., Box 1659, Midland, Tex. 79701.
CS76-792	....do....	Warren Scarborough Estate, Box 1659, Midland, Tex. 79701.
CS76-793	....do....	Kent Glasgow, P.O. Box 32126, Oklahoma City, Okla. 73132.
CS76-794	....do....	Baker & Taylor Drilling Co., P.O. Box 2748, Amarillo, Tex. 79105.
CS76-795	May 4, 1976	West Virginia-Kentucky Ltd., 22 Zane St., Wheeling, W. Va. 26003.
CS76-796	....do....	Joanaco Projects of Texas, 4701 East Floral Dr., Los Angeles, Calif. 90022.
CS76-797	May 5, 1976	Mrs. Prentice F. Brown, Melrose Hotel, Box 59, Dallas, Tex. 75221.
CS76-798	....do....	Lark Oil Co., 2400 Colorado State Bank Bldg., Denver, Colo. 80202.
CS76-799	May 6, 1976	Kenmar Ltd., 22 Zane St., Wheeling, W. Va. 26003.
CS76-800	....do....	Johnson-Mizel Venture No. 5, 3600 South Yosemite, Suite 910, Denver, Colo. 80237.
CS76-801	....do....	Royal Resources Corp., 612 Country Club Rd., Fairmont, W. Va.
CS76-802	....do....	Jay D. Swanson, 850 Sutton Place, Wichita, Kans. 67202.
CS76-803	....do....	Mark 1 Ltd., Suite 606, 240 Capitol St., Charleston, W. Va. 25301.
CS76-804	....do....	Edwin T. Stitt, 612 Country Club Rd., Fairmont, W. Va.
CS76-805	May 10, 1976	Pacific Oil & Gas Co., Suite 501, The Oil Center, 2601 NW. Expressway, Oklahoma City, Okla. 73112.
CS76-806	....do....	W. D. Stinson, P.O. Box 487, Mt. Pleasant, Tex. 75455.
CS76-807	....do....	James A. Brown et al., representing James A. Brown and Evelyn G. Brown and James A. Brown and Evelyn Ellen Mills, trustee, 14 Alpine Dr., Greenwich, Conn.
CS76-808	....do....	Texas Gas Corp., P.O. Box 2806, Corpus Christi, Tex. 78403.
CS76-809	....do....	Dallas C. Biggers, 2909 Republic Bank Tower, Dallas, Tex.
CS76-811	....do....	Eva Jane Casto, P.O. Box 494, Weston, W. Va. 26452.
CS76-810	....do....	T. F. Voiles, Box 676, Hooker, Okla.
CS76-812	May 7, 1976	Norman Krugman, Munday, W. Va. 26152.
CS76-787	Apr. 30, 1976	R. C. Slack, Drawer 820, Pecos, Tex. 79772.

[FR Doc.76-15588 Filed 5-28-76;8:45 am]

[Docket No. ID-1785]

THOMAS J. BROSNAN

Notice of Application

MAY 21, 1976.

Take notice that on April 19, 1976, Thomas J. Brosnan (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 positions:

Vice President Empire State Power Resources, Inc., Public Utility.

Director, Niagara Mohawk Power Corporation, Public Utility.

Niagara Mohawk is an electric and gas corporation organized and existing under the Transportation Corporations Law of the State of New York. Its electric and gas service area extends from the Pennsylvania line near Jamestown eastward to the Massachusetts boundary beyond Albany and north to the Canadian border. Niagara Mohawk renders electric service to approximately 1,284,000 customers in 37 of New York State's 63 counties, which include 31 cities and 639 towns and villages. The principal cities are Buffalo, Syracuse, Albany, Ut ica, Schenectady, Niagara Falls and Troy. Natural gas service is provided to approximately 419,000 customers in 15 counties in central, eastern and northern New York, nearly all within Niagaga bany, Utica, Schenectady, Niagara Falls Mohawk's electric service area. Gas service is provided in 21 cities and 169 municipalities, including, among others, the cities of Syracuse, Watertown, Albany, Utica, Schenectady, Troy and Hudson. Niagara Mohawk owns 100 percent of the common stock of Canadian Niagara Power Company, and existing under the laws of the Province of Ontario, Canada; 100 percent of the common stock of St. Lawrence Power Company, an electric distributing company organized and existing under the laws of the Dominion of Canada; 82.78 percent of the common stock of Beebee Island Corporation, organized and existing under the laws of the State of New York, which owns and operates a hydro-electric generating station located in the city of Watertown, Jefferson County, New York and 66⅔ percent of the common stock of Moreau Manufacturing Corporation, organized and existing under the laws of the State of New York, which owns and operates a hydroelectric generating station located in the Town of Moreau, Saratoga County, New York. Niagara Mohawk also owns 33.1 percent of the common stock of Indian River Company, a corporation organized and existing under the laws of the State of New York which maintains and operates a dam at the foot of Indian Lake in the County of Hamilton, State of New York.

Empire State Power Resources, Inc. has been formed by seven electric utility companies in New York State to acquire, construct, own and operate large-scale electric generating facilities within the State of New York. The seven companies are: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation (hereinafter referred to as the "Sponsors"). It is anticipated that the Sponsors will purchase substantially all of the capacity and energy available from the

Company and will own substantially all of its capital stock.

Any person desiring to be heard to to make any protest with reference to said application should on or before June 18, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-15779 Filed 5-28-76;8:45 am]

[Docket No. ER76-329]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Notice of Supplemental Filing

MAY 24, 1976.

Take notice that on May 13, 1976, the Central Vermont Public Service Corporation (Central Vermont) tendered for filing substitute rate schedule sheets in response to the Commission's letter of April 9, 1976 informing the company that its filing of December 2, 1975, was still assessed as deficient. The company states that the substitute sheets are intended to bring Central Vermont's proposed fuel clause into conformity with Order No. 517.

Central Vermont requests that the fuel clause compliance filing, including the substituted sheets, be permitted to become effective as of January 1, 1976.

The company states that copies of this filing have been sent to all affected customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 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 June 4, 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.76-15578 Filed 5-28-76;8:45 am]

[Docket No. RP72-134 (DCA76-2a)]

EASTERN SHORE NATURAL GAS CO.

Notice of Revised Tariff Sheets

MAY 24, 1976.

Take notice that on May 17, 1976, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing Substitute Thirtieth Revised Sheet No. 2A and Substitute Thirtieth Revised PGA-1 to its FPC Gas Tariff, Original No. 1. Eastern Shore states that these tariff sheets reflect changes related to the recoupment of demand charge credits .

Eastern Shore requests waiver of Section 154.22 of the Commission's Regulations and Section 20.2 of the General Terms and Conditions of its tariff in order to permit these tariff sheets to become effective June 1, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 June 15, 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.76-15776 Filed 5-28-76;8:45 am]

GEORGIA POWER CO.

[Docket No. ER76-587]

Order Granting Intervention and Denying Motion for Summary Disposition and Request for Five Month Suspension

MAY 24, 1976.

On April 26, 1976, the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia (City of Dalton) filed a petition for leave to intervene out of time in the above captioned proceedings. On April 30, 1976, Oglethorpe Electric Membership Corporation (Oglethorpe) filed a Motion for summary disposition of the rate filing made in this docket, or, in the alternative, a motion to suspend the proposed increase for five months. We shall grant intervention to the City of Dalton and, for the reasons hereinafter discussed, deny the motions of Oglethorpe.

On March 31, 1976 Georgia Power Company tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 2, which would increase revenues from jurisdictional partial requirements sales and service by 17,943,000 (15.5%) based on the twelve-month period following the proposed effective date of May 1, 1976.

Oglethorpe and another party filed timely petitions to intervene. Oglethorpe also filed a protest and request that the Commission order a five month suspension and a hearing in the instant docket. A response to Oglethorpe's petition was filed on April 22, 1976. By order issued April 30, 1976, the Commission accepted Georgia Power's submittal for filing, suspended it for three months, or until August 1, 1976, granted intervention to the petitioning parties, denied Oglethorpe's request for a five month suspension, set the matter for hearing and established procedures.

Having reviewed the petition of the City of Dalton, the Commission concludes that they have an interest in this proceeding which is sufficient to warrant untimely intervention herein.

Oglethrope contends that Georgia Power is presently earning a more than adequate rate of return and that therefore its rate filing should be summarily disposed of. The adequacy of a company's rate of return is peculiarly a matter of fact, raising complex factual questions which must be decided on the basis of a full evidentiary hearing and not on the basis of the pleadings. We shall, therefore, deny Oglethorpe's Motion for Summary Disposition.

In the alternative, Oglethorpe argues that two adjustments should be made to Georgia Power's cost of service-elimination of certain transmission facilities and expenses and of certain administrative and general expenses—which would then make the requested increase "so grossly excessive" as to warrant the full statutory suspension period. Again, adjustments to cost of service are questions of fact which must be established at a full evidentiary hearing. Our decision to suspend for three months was based on our review of Georgia Power's filing, the testimony and exhibits in support thereof and the pleadings of the intervenors. Based on such review we exercised our independent judgment in light of our expertise in this area and concluded that a three month suspension was sufficient to protect the public interest and the parties to this proceeding. Upon further review, we reaffirm our prior order and conclude that the three month suspension was proper. The period of suspension is a matter of discretion and not subject to judicial review. *Municipal Light Boards* v. *F.P.C.*, 450 F.2d 1341, 1352 (1971).

The Commission finds: (1) It is desirable and in the public interest to permit the City of Dalton to intervene in the instant proceedings, provided that such intervention is conditioned as hereinafter ordered.

(2) Good cause exists to deny Oglethorpe's motion for summary disposition.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenor shall be

limited to matters affecting asserted rights and interests and specifically set forth in its petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The motions of Oglethorpe hereinabove discussed are denied.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.76-15784 Filed 5-28-76;8:45 am]

[Project No. 2513]

GREEN MOUNTAIN POWER CORP.

Notice of Application for Approval of Revised Exhibit R

MAY 21, 1976.

Public notice is hereby given that an application was filed on May 3, 1973, and supplemented on January 11, 1974, and June 26, 1974, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Green Mountain Power Corporation (Correspondence to: Mr. E. G. Whitney, Sr., Vice President, Eng. and Opr., Green Mountain Power Corporation, 1 Main Street, Burlington, Vermont 05401, and Richard M. Merriman, Esq. and Richard T. Witt, Esq., Reid & Priest, 1701 K Street, N.W., Washington, D.C. 20006) for Commission approval of a licensed Exhibit R for constructed Essex Project No. 2513.

The project is located on the Winooski River in Chittenden County, Vermont, between the Town of Essex and the Town of Williston. Licensee seeks approval of an Exhibit R filed in accordance with Article 28 of the project license issued on January 21, 1969. The future recreational development as delineated in Exhibit R would include a proposed overlook and picnic area to be coordinated with future State highway construction, and a proposed picnic area and canoe launching area to be coordinated with the development of the Winooski Regional Park by Chittenden County.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 15, 1976 file with the Federal Power Commission, 825 North Capitol St., N.E., 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 C.F.R. § 1.8 or § 1.10 (1975). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-15782 Filed 5-28-76;8:45 am]

[Docket No. ES76-47]

IOWA ELECTRIC LIGHT AND POWER CO.

Order Authorizing the Issuance of Common Stock

MAY 21, 1976.

Iowa Electric Light and Power Company (Applicant) on April 5, 1976, filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to issue and sell 950,000 additional shares of common stock, par value $2.50 per share, via competitive bidding.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office at Cedar Rapids, Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado, and Nebraska. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 55 counties in the State of Iowa.

The common stock is to be issued on approximately June 17, 1976, and is subject to the prior rights and preferences of the existing outstanding classes of Cumulative Preferred Stock. The price to the Company for the Common Stock will be determined by competitive bidding on the basis of the person or persons offering the highest price to the Company.

According to Applicant, the purpose for which the common stock is to be used is for the repayment of outstanding long-term promissory notes, which notes were issued to obtain funds for the Applicant's construction program, principally the construction of a nuclear-fueled generating station near Palo, Iowa, during 1972-1974.

Written notice of the application has been given to the Iowa State Commerce Commission, Minnesota Public Service Commission, Nebraska Public Service Commission, Colorado Public Service Commission and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest with reference to said application should on or before May 3, 1976, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds: (1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore described and set forth in the Commission's order issued March 25, 1966, Iowa Electric Light and Power Company, Docket No. E-7446 (35 FPC 414).

(2) The proposed issuance of common stock, as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State Commission within the meaning of Section 204(f) of the Act; and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of securities as hereinafter authorized will be for a lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by applicant of service as a public utility and which will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purposes.

(5) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed issuance and sale of 950,000 additional shares of common stock, par value $2.50 per share, is hereby authorized subject to the provisions of this order.

(B) If, pursuant to a public invitation, at least two independent proposals for the purchase or underwriting of the issuance of 950,000 additional shares of common stock, par value $2.50 per share, are received, the Applicant may without further order of or filing with the Commission, issue or sell the said common stock in accordance with the terms contained in the application, provided the common stock is sold (1) in the case of common stock sold on a rights offering, to the bidder or bidders specifying the lowest aggregate amount of compensation to be paid by the issuer, or (2) in the case of common stock sold on a straight sale and not on a rights offering, to the bidder or bidders specifying the highest total price to be paid to the Company.

(C) Applicant shall amend its application pursuant to the requirements of Section 34.9(c) of the Commission's Regulations under the Federal Power Act, within 10 days after the consummation of the above-mentioned transaction.

(D) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of this order.

(E) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of costs, or any other matter whatsoever now pending or which may come before this Commission.

(F) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States

with respect to any securities to which this order relates.

By the Commission.

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

[FR Doc.76-15780 Filed 5-28-76;8:45 am]

[Docket No. RP76-77]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Granting Interventions

On April 1, 1976 Mississippi River Transmission Corporation (MRT) tendered for filing proposed revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1. The Commission accepted the proposed revised sheets for filing and suspended them for five months by its order issued April 26, 1976. Public notice of MRT's tender was issued on April 12, 1976 with comments, protests or petitions to intervene due on or before April 23, 1976. Petitions to intervene due on or before April 23, 1976. Petitions to intervene were filed by Arkansas Louisiana Gas Company on April 20, 1976; Illinois Power Company on April 16, 1976; Laclede Gas Company on April 21, 1976; Arkansas-Missouri Power Company on April 23, 1976; and, Union Electric Company on April 23, 1976. All petitions state that these companies are customers of MRT and that their interests may be affected by the outcome of this proceeding.

The Commission finds: Good cause exists to grant the interventions of the above-named petitioners.

The Commission orders: (A) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The interventions granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) 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.76-15781 Filed 5-28-76;8:45 am]

[Docket No. E-9046]

MONTAUP ELECTRIC CO.

Notice of Filing of Settlement Agreement

MAY 24, 1976.

Take notice that on May 20, 1976, the Montaup Electric Company (Montaup) tendered for filing a Settlement Agreement and motion to the Presiding Administrative Law Judge for initial decision approving same or certifying the Agreement to the Commission for approval. Montaup states that the Agreement, which leaves the originally proposed reorganization of the power supply arrangements intact but reduced the proposed rate increase, has been signed by all intervenors to this proceeding. This Agreement proposes to resolve all issues raised in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 4, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-15783 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Changes in FPC Representation to Supply-Technical Advisory Task Force-Domestic Natural Gas Potential Resource Base

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Supply-Technical Advisory Task Force-Domestic Natural Gas Potential Resource Base and initial membership for this task force.

1. FPC Representation. A new FPC Coordinating Representative and Secretary to the Supply-Technical Advisory Task Force-Domestic Natural Gas Potential Resource Base as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

David F. Morehouse, Geologist—BNG.

Mr. Morehouse replaces Edwin D. Goebel as Coordinating Representative and Secretary.

By the Commission.

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

[FR Doc.76-15753 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Members and Removing Members From the Transmission, Distribution & Storage Technical Advisory Task Force-Impact of Gas Shortage on Consumers

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, established the Transmission, Distribution & Storage-Technical Advisory Task Force-Impact of Gas Shortage on Consumers of the National Gas Survey.

1. Membership. A new member to the Transmission, Distribution & Storage-Technical Advisory Task Force-Impact of Gas Shortage on Consumers as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Thomas Clarke, U.S. Bureau of Mines, Washington, D.C.

Jack M. Campbell, The Appalachian Regional Commission, Washington, D.C.

Mr. Campbell replaces Winifred Flaherty of the Appalachian Regional Commission and Mr. Clarke replaces Ronald Balazik of the Bureau of Mines on this task force.

Resignations have been received from the following members who are hereby removed from the task force:

L. G. Brackeen, E. I. duPont de Nemours & Company, Inc., Wilmington, Delaware.

Norman Harvey, U.S. Department of Labor, Washington, D.C.

By the Commission.

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

[FR Doc.76-15754 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Members and Changes in FPC Representation to the Curtailment Strategies-Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Curtailment Strategies-Technical Advisory Committee and initial membership for this Committee.

1. Membership. New members to the Curtailment Strategies-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Robert Reinsel, Department of Agriculture, Washington, D.C.

Raymond Attebery, National Distillers & Chemical Corporation, New York, New York.

Thomas Clarke, U.S. Bureau of Mines, Washington, D.C.

Ronald Kutscher, U.S. Department of Labor, Washington, D.C.

Mr. Clarke replaces Ronald Balazik of the U.S. Bureau of Mines and Mr. Kutscher replaces Norman Harvey of the U.S. Department of Labor.

2. FPC Representation. A new FPC coordinating Representative and Secretary to the Curtailment Strategies-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Franklin W. Lipshultz, Geologist—BNG.

Mr. Lipshultz replaces Leon H. Friedlander as Coordinating Representative and Secretary.

By the Commission.

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

[FR Doc.76-15755 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Change in FPC Representation to the Research & Development Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Research & Development-Technical Advisory Committee and initial membership for this Committee.

1. FPC Representation. A new FPC Representative to the Research & Development-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Thomas Jennings, Petroleum Engineer—NGS.

Mr. Jennings replaces Edwin D. Goebel as a FPC Representative.

By the Commission.

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

[FR Doc.76-15756 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Removing Member From the Transmission, Distribution & Storage-Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Transmission, Distribution & Storage-Technical Advisory Committee and initial membership for this Committee.

1. Membership. Resignation has been received from the following member who is hereby removed from the Committee:

Mildred Clark, Audubon Naturalist Society, Washington, D.C.

By the Commission.

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

[FR Doc.76-15757 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Member and Changes in FPC Representation to the Coordinating Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Coordinating Committee and initial membership for the Committee.

1. Membership. A new member to the Coordinating Committee as selected by the Chairman with the approval of the Commission is as follows:

Robert B. Rosenberg, Institute of Gas Technology, Chicago, Illinois.

Dr. Rosenberg replaces Mr. Berg in this assignment.

2. FPC Representation. New FPC Representatives to the Coordinating Committee as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Allan R. Rexinger, Staff Attorney—OGC.

Thomas Jennings, Petroleum Engineer—NGS.

Mr. Rexinger replaces Russell B. Mamone as Coordinating Representative and Secretary, and Mr. Jennings replaces Edwin D. Goebel as a FPC Representative.

By the Commission.

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

[FR Doc.76-15758 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Members to the Finance-Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Finance-Technical Advisory Committee and initial membership for this Committee.

1. Membership. A new member to the Finance-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Robert E. Brady, First National City Bank, New York, New York.

By the Commission.

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

[FR Doc.15759 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Members and Changes in FPC Representation to the Supply-Technical Advisory Task Force-Nonconventional Natural Gas Resources

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Supply-Technical Advisory Task Force-Nonconventional Natural Gas Resources and initial membership for this task force.

1. Membership. New members to the Supply-Technical Advisory Task Force-Nonconventional Natural Gas Resources as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

W. E. Matthews IV, Southern Natural Gas Co., Birmingham, Alabama.

George H. Denton, Lykes Resources, Inc., Pittsburgh, Pennsylvania.

Frank C. Schora, Institute of Gas Technology, Chicago, Illinois.

Maurice Deul, U.S. Bureau of Mines, Pittsburgh, Pennsylvania.

Milford Skow, U.S. Bureau of Mines, Pittsburgh, Pennsylvania.

Wallace DeWitt, Jr., U.S. Geological Survey, Reston, Virginia.

William K. Overbey, Jr., U.S. Energy Research and Development Administration, Morgantown, West Virginia.

Sidney S. Galpin, Consolidated Gas Supply Corporation, Charleston, West Virginia.

Mr. Galpin replaces Clifton Heathcote on this task force.

2. FPC Representation. New FPC Coordinating Representative and Secretary to the Supply-Technical Advisory Task Force-Nonconventional Natural Gas Resources as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Thomas Jennings, Petroleum Engineer—NGS.

Mr. Jennings replaces Edwin D. Goebel as Coordinating Representative and Secretary.

A new FPC representative as selected by the Chairman of the Commission with the approval of the Commission is as follows:

Thomas J. Brownfield, Jr., Energy Systems Analyst—OES.

Mr. Brownfield replaces Robert L. Kane as representative.

By the Commission.

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

[FR Doc.76-15760 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Member and Chairman to the Conservation-Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Conservation-Technical Advisory Committee and initial membership for this Committee.

1. Membership. New member to the Conservation-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Robert Rosenberg, Institute of Gas Technology, Chicago, Illinois.

Dr. Rosenberg replaces Charles Berg as Chairman of this Committee.

By the Commission.

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

[FR Doc.76-15761 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Removing Member From the Conservation-Technical Advisory Task Force-Net Energy Cost of Competitive Energy Systems

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Conservation-Technical Advisory Task Force-Net Energy Cost of Competitive Energy Systems and initial membership for this Committee.

1. Membership. Resignation has been received from the following members who are hereby removed from the task force:

Kirkland C. Mead, The MITRE Corporation, Bedford, Massachusetts.

David W. Holmes, California Public Utilities Comm., San Francisco, California.

By the Commission.

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

[FR Doc.76-15762 Filed 5-28-76;8:45 am]

NATIONA' GAS SURVEY

Order Removing Member From and Designating Change in FPC Representation to Conservation-Technical Advisory Task Force-Conservation Within the Gas Industry

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, established the Conservation-Technical Advisory Task Force-Conservation Within the Gas Industry of the National Gas Survey.

1. Membership. Resignation has been received from the following member who is hereby removed from the task force:

Clarence B. Folsom, North Dakota Geological Survey.

2. FPC Representation. A new FPC Representative to the Conservation-Technical Advisory Task Force-Conservation Within the Gas Industry as selected by the Chairman of the Commission with the approval of the Commission is as follows:

Thomas Jennings, Petroleum Engineer—NGS.

Mr. Jennings replaces Edwin D. Goebel as FPC Representative.

By the Commission.

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

[FR Doc.76-15763 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Members and Changes in FPC Representation to the Supply-Technical Advisory Committee

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Supply-Technical Advisory Committee and initial membership for this Committee.

1. Membership. New members to the Supply-Technical Advisory Committee as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Kenneth L. Cornwell, E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.

Richard F. Meyer, U.S. Geological Survey, Reston, Virginia.

Mr. Cornwell replaces Mr. L. G. Brackeen of E. I. du Dupont de Nemours & Company, Inc. on this Committee.

Resignation has been received from the following member who is hereby removed from the Committee:

Albert F. Bass, Federal Energy Agency, Washington, D.C.

2. FPC Representation. New FPC Coordinating Represenative and Secretary to the Supply-Technical Advisory Committee as selected to by the Chairman of the Commission with the approval of the Comission, are as follows:

William J. McCabe, Senior Staff Geologist—NGS.

Mr. McCabe replaces Edwin D. Goebel as Coordinating Representative and Secretary.

By the Commission.

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

[FR Doc.76-15764 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Members to and Removing Member From the Conservation-Technical Advisory Task Force-Efficiency in Use of Gas

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, established the Conservation-Technical Advisory Task Force Efficiency In Use of Gas of the National Gas Survey.

1. Membership. New members to the Conservation-Technical Advisory Task Force-Efficiency in Use of Gas as selected by the Chairman of the Commission with the approval of the Commission, are as follows:

Francis X. Murray, Georgetown University, Washington, D.C.

James J. Tanner, Pacific Gas & Electric Company, San Francisco, California.

Jack M. Campbell, The Appalachian Regional Commission, Washington, D.C.

Gregory A. Thomas, Sierra Club, Washington, D.C.

John Albright, Bureau of Mines, Washington, D.C.

Jack Langmead, Gas Appliance Manufacturers Association, Arlington, Virginia.

Mr. Albright replaces Ronald Balazik and Mr. Campbell replaces Winifred Flaherty on this task force.

Resignation has been received from the following member who is hereby removed from the task force:

Kirtland C. Mead, The MITRE Corporation, Bedford, Massachusetts.

By the Commission.

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

[FR Doc.76-15765 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Members and Changes in FPC Representation to the Supply-Technical Advisory Task Force-Synthesized Gaseous Hydrocarbon Fuels

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Supply-Technical Advisory Task Force-Synthesized Gaseous Hydrocarbon Fuels and initial membership for this task force.

1. Membership. New members to the Supply-Technical Advisory Task Force-Synthesized Gaseous Hydrocarbon Fuels as selected by the Chairman of the Commission wth the approval of the Commission, are as follows:

Kenneth L. Cornwell, E. I. du Pont de Nemours & Co. Inc., Wilmington, Delaware.

Ralph Kienker, Monsanto Company, St. Louis, Missouri.

Bernard S. Lee, Institute of Gas Technology, Chicago, Illinois.

2. FPC Representative. A new FPC representative to the Supply-Technical Advisory Task Force-Synthesized Gaseous Hydrocarbon Fuels as selected by the Chairman with the approval of the Commission is as follows:

Walter Lusby, Federal Power Commission.

Mr. Lusby replaces Richard E. Rowberg as FPC representative.

By the Commission.

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

[FR Doc.76-15766 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Removing Member From the Transmission Distribution & Storage-Technical Advisory Task Force-Rate Design

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, established the Transmission, Distribution & Storage-Technical Advisory Task Force-Rate Design of the National Gas Survey.

1. Membership. Resignation has been received from the following member who is hereby removed from the Task Force:

Kirtland C. Mead, MITRE Corporation, Bedford, Massachusetts.

By the Commission.

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

[FR Doc.76-15767 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating Vice Chairman to and Removing Member From the Transmission, Distribution & Storage-Technical Advisory Task Force-Impact of Gas Shortage on Transmission, Distribution and Storage

MAY 24, 1976.

The Federal Power Commission by Order issued September 15, 1975, announced a new program for the National Gas Survey Transmission, Distribution & Storage-Technical Advisory Task Force-Impact of Gas Shortage on Transmission, Distribution & Storage of the National Gas Survey.

1. Membership. Resignation has been received from the following member who is hereby removed from the task force:

Charles H. Batten, National Transportation Safety Board, Washington, D.C.

2. Vice Chairman. The following member previously appointed to the Transmission, Distribution & Storage-Technical Advisory Task Force-Impact of Gas Shortage on Transmission, Distribution

& Storage is designated as Vice Chairman.

Everett Morris, Public Service Electric & Gas Company, Newark, New Jersey.

By the Commission.

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

[FR Doc.76-15768 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY

Order Designating New Member of the Supply Technical Advisory Task Force-Regulatory Aspects of Substitute Gas

MAY 24, 1976.

The Federal Power Commission By Order issued September 15, 1975 announced a new program for the National Gas Survey Supply-Technical Advisory Task Force-Regulatory Aspects of Substitute Gas and initial membership for this task force.

1. Membership. A new member of the Supply-Technical Advisory Task Force-Regulatory Aspects of Substittue Gas as selected by the Chairman of the Commission with the approval of the Commission is as follows:

C. Roger Hoffman, Texaco, Inc., Houston, Texas.

Mr. Hoffman replaces Kirk W. Weinert of Teaxco, Inc. on this task force.

By the Commission.

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

[FR Doc.76-15769 Filed 5-28-76;8:45 am]

[Docket No. RP71-107 (PGA76-2)]

NORTHERN NATURAL GAS CO.

Order Granting Intervention

MAY 21, 1976.

On March 25, 1976, Northern Natural Gas Company (Northern) tendered for filing revised tariff sheets to its FPC Gas tariff which would increase by 10.10c per Mcf the commodity portion of all jurisdictional rates, effective July 1, 1976. Northern's filing was noticed on April 5, 1976, with all protests, comments and petitions to intervene due on or before April 20, 1976.

Timely petitions to intervene were filed by Wisconsin Gas Company on April 12, 1976, Kansas-Nebraska Natural Gas Company, Inc. on April 16, 1976, and Metropolitan Utility District of Omaha on April 19, 1976.

Upon consideration to the petitions to intervene filed on behalf of these petitioners, we find good cause exists to grant the petitions to intervene.

The Commission finds: Participation by the above-named petitioners in these proceedings may be in the public interest and good cause exists for permitting such intervention.

The Commission orders: (A) The above-named petitioners are hereby permitted to intervene in this proceeding as hereinbefore discussed, subject to the Rules and Regulations of the Commissions; *Provided,* however, that the participation of such intervenors shall be limited to matters affecting rights and interest specifically set forth in the petitions to intervene; *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any orders issued by the Commission in this proceeding.

(B) 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.76-15774 Filed 5-28-76;8:45 am]

[Docket No. RP71-107 (PGA76-1)]

NORTHERN NATURAL GAS CO.

Notice of Extension of Time

MAY 21, 1976.

On May 7, 1976, Staff Counsel filed a motion to compel Northern Natural Gas Company (Northern) to furnish the information requested by letter dated April 8, 1976 in the above dockets. The motion also requested an extension of the time provided in the Notice of the Secretary issued April 5, 1976 to comment on Northern's data submitted on March 25, 1976.

Upon consideration, notice is hereby given that the time is extended to 45 days after disposition of the above motion by the Commission.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-15775 Filed 5-28-76;8:45 am]

[Docket No. CP76-367]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MAY 24, 1976.

Take notice that on May 12, 1976, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP76-367 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 2,336 feet of 6-inch pipeline, together with certain measuring and regulating equipment associated therewith, maintained for emergency service to Western Kentucky Gas Company (Western) in Barren County, Kentucky, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon facilities at the southern terminus of its Glasgow 6-inch pipeline east of the northern city limits of Glasgow, Kentucky. Applicant states that it has an 8-inch pipeline and meter station to serve Western's needs for the City of Glasgow and environs and that since such facilities were placed in service in 1968 the facilities proposed to be abandoned have been maintained for emergency service to Western. It is stated that the facilities proposed to be abandoned are no longer necessary, that they were constructed in 1930, and that they have deteriorated to a point where replacement would be necessary if they were continued to be operated.

The application states that there would be no change in the contract demand or quantity entitlements of Western as a result of the proposed abandonment. The application states further that the proposed abandonment would have no adverse effect on service to Western or other customers of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 11, 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 nad 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 permission and approval for the proposed abandonment are required by the public convenience and necessary. 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.76-15786 Filed 5-28-76;8:45 am]

[Docket Nos. RP72-99, RP73-69 and RP75-75]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Tariff Filing

MAY 21, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on May 7, 1976, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 to become effective April 1, 1976, May 1, 1976 and May 2, 1976.

Transco states that the purpose of its filing is to provide changes necessary to reflect (1) the elimination of unrecoverable advance payments from rate base as provided by Commission Order in Docket No. RP73-69; (2) actual cost of emergency natural gas purchases for the period November 16, 1975 though March 3, 1976 in accordance with the terms of its tariff; and (3) elimination from the tariff sheets to be effective May 1, 1976 of costs related to the Price Freeze issue as provided by Commission Order issued April 30, 1976 in Docket Nos. RP73-3, et al.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 4, 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.76-15772 Filed 5-28-76;8:45 am]

[Docket No. CP76-368]

UNITED GAS PIPE LINE CO.

Notice of Application

MAY 24, 1976.

Take notice that on May 14, 1976, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-368 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 7.2 miles of 24-inch pipeline and related facilities in the West Cameron Area, offshore Louisiana, by sale to Stingray Pipeline Company (Stingray), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the pipeline, which extends between Blocks 587 and 565 in the West Cameron Area, is not an integral part of Applicant's pipeline system and was constructed and is operated to transport gas, purchased by Applicant in Block 587, to Stingray in Block 565 for transportation for Applicant. It is stated that Applicant does not anticipate that it would purchase any gas other than that which it now purchases in Block 587 that could be transported through the pipeline proposed to be abandoned and that therefore, Applicant would have no use for the pipeline when deliveries from Block 587 cease.

The application states that subsequent to the abandonment the pipeline would become an integral part of Stingray's offshore pipeline system and would continue to be used to transport gas for Applicant as well as be used to transport gas for Stingray's other transportation customers. Applicant states that it believes that the pipeline would be more fully used by Stingray as part of its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 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 Section 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 permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-15785 Filed 5-28-76;8:45 am]

[Docket No. RP72-133 (PGA76-2a)]

UNITED GAS PIPE LINE CO.

Notice of Filing of Revised Tariff Sheet

MAY 24, 1976.

Take notice that on May 17, 1976, United Gas Pipe Line Company (United) tendered for filing Substitute Twenty-Ninth Revised Sheet No. 4 as a part of its FPC Gas Tariff, First Revised Volume No. 1.

The proposed tariff sheet is being filed pursuant to Federal Power Commission order issued April 30, 1976, which required United to file revised rates to reflect the elimination from both the deferred account and current cost of gas account increases reflected in United's March 31, 1976 special PGA filing which were not incurred by May 1, 1976.

A copy of the proposed tariff sheet and supporting data will be mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing 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 (18 CFR 1.8, and 1.10). All such petitions or protests should be filed on or before June 7, 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.76-15777 Filed 5-28-76;8:45 am]

[Docket Nos. RP73-94; PGA 76-2]

VALLEY GAS TRANSMISSION, INC.

Notice of Purchased Gas Cost Adjustment Filing

MAY 21, 1976.

Valley Gas Transmission, Inc. (Valley), on May 14, 1976, submitted for filing as part of its FPC Gas Tariff, Original Volume No. 1, its proposed Seventh Revised Sheet No. 2A. The proposed effective date is July 1, 1976.

Valley states that this tariff sheet is filed pursuant to its Purchased Gas Cost Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment". Both such adjustments are supported by computations attached to the 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 (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-15773 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY, SUPPLY-TECHNICAL ADVISORY TASK FORCE—REGULATORY ASPECTS OF SUBSTITUTE GAS

Study Subgroup II: Coal Based-Substitute Gas; Meeting

Meeting to be held in Conference Room 3200, Federal Power Commission, Union Center Plaza Building, 941 North Capitol Street, NE., (North Building), Washington, D.C. 20426, on June 16, 1976, at 9:00 a.m.

Presiding: Mr. Michael C. Bachman, FPC Cooridnating Representative and Secretary, National Gas Survey.

1—Call to Order—Mr. Michael C. Bachman.

2—Introductory Remarks—Mr. Earl V. Fisher, Texas Eastern Transmission Corporation, Houston, Texas.

3—Review of Subgroup Report to Task Force—Mr. Earl V. Fisher.

4—Other Business.

5—Adjournment—Mr. Michael C. chman.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-15981 Filed 5-28-76;8:45 am]

NATIONAL GAS SURVEY, SUPPLY-TECHNICAL ADVISORY TASK FORCE—REGULATORY ASPECTS OF SUBSTITUTE GAS

Study Subgroup I: Substitute Pipeline Gas and LNG; Meeting

Meetings to be held in Conference Room 5200, Federal Power Commission, Union Plaza Building, 941 North Capitol Street, NE. (North Building), Washington, D.C. 20426, on June 16, 1976, at 9:00 a.m.

Presiding: Mr. Michael C. Bachman, FPC Coordinating Representative and Secretary, National Gas Survey.

1—Call to Order—Mr. Michael C. Bachman.

2—Introductory Remarks—Mr. G. Scott Cuming, Senior Vice President & General Counsel, El Paso Natural Gas Company, Houston, Texas.

3—Review of Subgroup Draft Report to Task Force.

4—Discussion of Other Matters.

5—Adjournment—Mr. Michael C. Bachman.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-15982 Filed 5-28-76;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1976 No. 19]

APPLICATIONS AND REPORTS

Actions Received During the Week Ending May 8, 1976

ACTIONS OF THE BOARD

Statement by Chairman Arthur F. Burns before the Senate Committee on Banking, Housing and Urban Affairs on the course of monetary policy for the year ahead.

Report on bill H.R. 13211, the "International Banking Act of 1976", letter to Chairman Reuss, House Committee on Banking, Currency and Housing, offering the Board's strong support for the enactment of the bill.

Issuance of subordinated capital notes by The Jackson State Bank, Jackson, Wyoming.

The Board announced agreement with the GAO on guidelines for a study by the GAO of the Federal Reserve's discharge of its bank supervisory responsibilities.

Citizens Bancorp, Albany, Oregon, extension to time to September 9, 1976, within which to acquire shares of Citizens Valley Bank and Citizens Development Company, Albany, Oregon.[1]

Mercantile Bancorporation, Inc., St. Louis, Missouri, additional extension of time, from May 12, 1976, through July 12, 1976, within which to acquire 90 percent of the voting shares of Shelbina Bank, Shelbina, Missouri.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to June 7, 1976, within which to consummate the acquisition of the Stock Yards Bank, Oklahoma City, Oklahoma.[1]

Traer Shares, Incorporated, Traer, Iowa, extension of time to June 7, 1976, within which to acquire Farmers Savings Bank, Traer, Iowa.[1]

Huntington Bank of Wood County, Bowling Green, Ohio, to make an investment in bank premises.[1]

Perry County Bank, New Lexington, Ohio, to make an investment in bank premises.[1]

State Bank of Anoka, Anoka, Minnesota, to make an investment in bank premises.[1]

Bank of Byromville, Byromville, Georgia, proposed merger with Exchange Bank of Unadilla, Unadilla, Georgia; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Bank of Virginia-Southwest, Bristol, Virginia, proposed merger with Bank of Virginia-Galax, Galax, Virginia; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Casco Bank & Trust Company, Portland, Maine, proposed merger with Casco-Northern National Bank, Augusta, Maine; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Central Counties Bank, State College, Pennsylvania, proposed merger with first National Bank of Lewistown, Lewistown, Pennsylvania; report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Merchants National Bank of St. Johnsbury, St. Johnsbury, Vermont, proposed merger with The First National Bank of Springfield, Springfield, Vermont; report to the Comptroller of the Currency on competitive factors.[1]

Peoples National Bank of Plymouth, Plymouth, Ohio, proposed merger with First National Bank of Mansfield, Mansfield, Ohio; report to the Comptroller of the Currency on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

Columbia Bank of Tampa, Tampa, Florida, extension of time to September 1, 1976, within which to establish a remote facility at Adamo Drive and 21st Street, Tampa, Florida.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

APPROVED

Georgia Railroad Bank & Trust Company, Augusta, Georgia. Branch to be established at the Dwight David Eisenhower Medical Center, Fort Gordon, Georgia.[2]

* * * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956

APPROVED

Gilman Corporation, Gilman, Wisconsin, for approval to acquire 86.4 per cent of the voting shares of State Bank of Gilman, Gilman, Wisconsin.[2]

BUYA CORP., Wakefield, Nebraska, for approval to acquire 80 per cent or more of the voting shares of the Wakefield National Bank, Wakefield, Nebraska.[2]

Weleetka Bancshares, Inc., Weleetka, Oklahoma, for approval to acquire 80 per cent or more of the voting shares of The State National Bank of Weleetka, Weleetka, Oklahoma.[2]

* * * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

APPROVED

Valley of Virginia Bankshares, Inc., Harrisonburg, Virginia, for approval to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to The First National Bank of Troutville, Troutville, Virginia.[2]

First Banc Group, Inc., Creve Coeur, Missouri, for approval to acquire 50 per cent or more of the voting shares of American State Bank of Flat River, Flat River, Missouri.

* * * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956

DELAYED

Security New York State Corporation, Rochester, New York, notification of intent to relocate de novo activities (computer services and data processing activities) from Rochester and Auburn, New York to Henrietta, New York, through its subsidiary, Griffin Computer Services, Inc. Direct contact with the public will take place at the offices of Security New York State Corporation: Security Trust Company of Rochester, Rochester, New York; First Trust Union Bank, Wellsville, New York; First Bank and Trust Company of Corning, Corning, New York; The State Bank of Seneca Falls, Seneca Falls, New York; The Citizens Bank, Attica, New York; The Bank of LeRoy, LeRoy, New York; The National Bank of Auburn, Auburn, New York; First National Bank and Trust Company of Ithaca, Ithaca, New York; and Glen National Bank and Trust Company, Watkins Glen, New York (5/5/76)[2]

[2] Application processed by the Reserve Bank in behalf of the Board of Governors under delegated authority

[3] 4(c)(8) and 4(c)(12) notification processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

United Jersey Banks, Princeton, New Jersey, notification of intent to engage in de novo activities (leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property where such property is acquired by the lessor at the request of the lessee for business purposes and where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property) at Princeton Station, Office Park, 14 Washington Road, Princeton, New Jersey, through its subsidiary, United Jersey Leasing Company (5/5/76)[3]

BancOklahoma Corp., Tulsa, Oklahoma, notification of intent to engage in de novo activities (making, acquiring, and/or servicing for the account of BancOklahoma Service Corp. or for the account of others, secured and unsecured consumer loans and other extensions of credit to include home improvement loans and revolving lines of credit and to provide factoring accounts receivables, acceptances and other commercial paper, and credit instruments) at 321 South Boston, Tulsa, Oklahoma, through a subsidiary, BancOklahoma Service Corp. (5/5/76)[3]

REACTIVATED

Industrial National Corporation, Providence, Rhode Island, notification of intent to engage in de novo activities (origination, sales, and servicing of residential mortgages) at 300 Duncan Street, Clearwater, Florida, 1443 West Schaumburg Road, Schaumburg, Illinois, and 5813 Melton Drive, Oklahoma City, Oklahoma, through its subsidiary, Mortgage Associates, Inc. (5/6/76)[3]

PERMITTED

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to relocate de novo activities (mortgage banking, including the making and selling of mortgages for its own account and the accounts of others) from 1401 W. Paces Ferry Road NW., Atlanta, Georgia to 1900 Century Boulevard, Suite 5, Atlanta, Georgia, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (5/6/76)[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (mortgage banking, including the making and selling of mortgages for its own account and the accounts of others) at Suite 7, Central Plaza, 3630 Central Avenue, Riverside, California, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (5/2/76)[3]

Alabama Bancorporation, Birmingham, Alabama, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit (including issuing letters of credit and accepting drafts) such as would be made by a factoring company, a commercial finance company, or a mortgage company; servicing loans and other extensions of credit for any person; leasing personal property and equipment, or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property; and additionally, as an incident to its lending activities and if requested by its customers, such subsidiary will make provision with an insurance carrier for credit life and accident and health insurance that is directly related to loans to such customers) at 2971 Flowers Road, South, De Kalb County, Georgia, through a subsidiary, Alabanc Financial Corporation (5/6/76)[3]

Walter E. Heller International Corporation, Chicago, Illinois, notification of intent to engage in de novo activities (to engage in the business of commecial finance) at 101 Park Center Plaza, Suite 1108, San Jose, California, through its subsidiary, National Acceptance Company of California (5/2/76)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit in connection with the financing of personal property and equipment and real property; and the leasing of such real property or the acting as agent, broker, or adviser in the leasing/or financing of such property provided the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property, the property to be leased is acquired specifically for the leasing transaction under consideration or was acquired specifically for an earlier leasing transaction, the lease is on a non-operating basis and where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, the servicing of such financings and/or leases of real or personal property) at One Embarcadero Center, Suite 710, San Francisco, California, through its subsidiary, Security Pacific Leasing Corporation (5/6/76).[3]

WITHDRAWN

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, and/or mortgage redemption insurance which insurance is directly related to an extension of credit by Mellon National Corporation, its subsidiaries, or affiliates) at Mellon Bank Building, Mellon Square, Pittsburgh, Pennsylvania and 6400 Steubenville Pike, Robinson Township, McKees Rocks, Pennsylvania, through a wholly-owned subsidiary, Laurel Insurance Agency, Inc. (5/7/76)[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956

PERMITTED

H.F. Ahmanson & Company, Beverly Hills, California, notification of intent to acquire Heritage Savings and Loan Association, Bakersfield, California, through the subsidiary, Home Savings and Loan Association (5/2/76)[3]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

American Bank of Orange County, Orlando, Florida. Branch to be established at the intersection of Silver Star Road, and Pine Hills Road, Orlando.

Metropolitan Bank, Tampa, Florida. Branch to be established at 4202 West Kennedy Boulevard, Tampa.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding company Act of 1956.

Park Financial Corporation, St. Louis Park, Minnesota, for approval to acquire 80 per cent or more of the voting shares of Park National Bank of St. Louis Park, St. Louis Park, Minnesota.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

M & S BanCorp, Janesville, Wisconsin, for approval to acquire 98.83 per cent of the voting shares of Merchants Bank of Evansville, Evansville, Wisconsin, a proposed new bank.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance; if this proposal is effected, Nationwide Financial Corporation of California will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrowers' disability; and individual physical damage insurance on personal property subject to security agreements including liability only when such insurance is sold as part of an insurance package on such property; further, in regard to the sale of credit related insurance, Nationwide Financial Corporation of California will not offer insurance counseling) from 934 S. Euclid Avenue, Anaheim, California to 1022 North Tustin Avenue, Orange, California, through its subsidiary, Nationwide Financial Corporation of California (5/3/76)[3]

Fidelcor, Inc., Philadelphia, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals, including second mortgage loans, servicing these loans and possibly other loans secured by mortgages on properties in Florida where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from sale of personal property and services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance, and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer type credit life insurance and credit accident and health insurance sold) from 1450 8th Avenue, Vero Beach, Florida to Bay No. 6, 2345 14th Avenue, Vero Beach, Florida, through its subsidiary, Fidelcor Financial Centers, Inc. (4/23/76)[3]

Fidelcor, Inc., Philadelphia, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals, including second mortgage loans, servicing these loans and possibly other loans secured by mortgages on properties in North Carolina where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from sale of personal property and services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance, and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer type credit life insurance and credit accident and health insurance sold) from 603 Summit Avenue, Greensboro, North Carolina to 2246 Golden Gate Center, Greensboro, North Carolina, through its subsidiary, Fidelcor Financial Center of Greensboro, Inc. (4/23/76)[3]

Fidelcor, Inc., Philadelphia, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals, including second mortgage loans, servicing these loans and possibly other loans secured by mortgages on properties in North Carolina where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from sale of personal property and services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance, and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer type credit life insurance and credit accident and health insurance sold) from 121 N. LaFayette Street, Shelby, North Carolina to 205 West Dixon Boulevard, Shelby, North Carolina, through its subsidiary, Fidelcor Financial Center of Shelby, Inc. (4/23/76)[3]

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, and/or mortgage redemption insurance which insurance is directly related to an extension of credit by Mellon National Corporation, its subsidiaries, or affiliates; specifically such insurance will be associated with extensions of credit made by the various branch offices of Mellon Bank, N.A., at Mellon Bank Building, Mellon Square, Pittsburgh, Pennsylvania) at 6400 Steubenville Pike, Robinson Township, McKees Rocks, Pennsylvania, through a wholly-owned subsidiary, Laurel Insurance Agency, Inc. (5/4/76)[3]

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (making or acquiring, for its own account or the account of others, loans and other extensions of credit such as would be made by a mortgage company; acting as insurance agency in connection with credit life and disability insurance and mortgage redemption insurance which is directly related to the extension of credit or provision of other financial services by Carruth Mortgage Corporation) at 10001 Lake Forest Boulevard, New Orleans, Louisiana, through its wholly-owned subsidiary, Carruth Mortgage Corporation (5/3/76)[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (mortgage banking including the making, acquiring, and servicing for its own account or the accounts of others, loans and other extensions of credit) at Suite 309, 14044 Ventura Boulevard, Sherman Oaks, California, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (5/6/76)[3]

D. H. Baldwin Company, Cincinnati, Ohio, for approval to engage de novo in leveraged leasing of personal property through a subsidiary, FMC—Baldwin Leasing Company, Chicago, Illinois.[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to acquire more than 5 per cent of the outstanding voting stock of American Credit Corp., Charlotte, North Carolina, engaged in consumer loans, financing of retail purchases, factoring and commercial financing, automobile leasing, writing of fire and casualty, credit life and accident and health insurance, mainly in connection with finance operations (5/6/76)[3]

Registration Statement Filed Pursuant to Section 12(g) of the Securities Exchange Act

The Bank of Eden, Eden, North Carolina

* * * * *

Current Report Filed Pursuant to Section 13 of the Securities Exchange Act

Southwest Bank of St. Louis, St. Louis, Missouri

* * * * *

PETITION FOR RULEMAKING

None

Board of Governors of the Federal Reserve System, May 26, 1976.

[SEAL] J. P. GARBARINI,
Assistant Secretary of the Board.

[FR Doc.76-15846 Filed 5-28-76;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on May 21, 1976. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the Federal Register is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the FTC and FEA submissions are invited from all interested persons, organizations, public interest groups, and affected businesses. Becaue of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before June 21, 1976, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL TRADE COMMISSION

FTC requests an extension on change clearance of its "Pre-Merger Notification Program: Special Report Forms." The special report form provides for compulsory Pre-Notification and filing of Special Reports whenever a company acquires a manufacturing company with sales or assets of $10 million or more and the combined sales or assets exceed $250 million, or when a company acquires a nonmanufacturing company with assets of $10 million or more and the combined assets exceed $250 million. Special Report forms are sent to all potential acquiring companies and are mandatory pursuant to FTC Act Section 6(b). FTC estimates respondent burden as 50 hours per response.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of its new single time Form U517-S-O "Corporate Indentification Survey." This form will collect energy consumption data from all manufacturing corporations which consume at least one trillion BTU's of energy per year. This report is mandatory under the Energy Policy and Conservation Act of 1975 (P.L. 94-163) Title III Part D, and the Federal Energy Administration Act of 1974 (P.L. 93-275) Section 13. FEA estimates burden to be 24 hours for each response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-15819 Filed 5-28-76;8:45 am]

REGULATORY REPORTS REVIEW

Notice of Receipt and Approval of a Proposed Report

The following request for clearance of proposed reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 19, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

SECURITIES AND EXCHANGE COMMISSION

The SEC requested clearance of three survey questionnaires comprising a 1976 Proxy Survey. The survey questionnaires are new and relate to the manner in which issuers transmit communications to their shareowners both directly and through intermediaries such as broker-dealers and banks. The questionnaires

are part of the Commission's ongoing Study of the Practice of Registering Securities in Other than the Name of the Beneficial Owner of such securities pursuant to Section 12(m) of the Securities Exchange Act of 1934 (15 U.S.C. 781 (m)).

To assure that the data derived from the questionnaires would be relatively free from bias and would accurately depict the current communications system, SEC felt it was essential that the specific contents of the questionnaires not be made known prior to the commencement of the survey. Accordingly, the Commission requested that the issuer, bank and broker questionnaires not be made available for public inspection.

GAO agreed with the SEC position and reviewed the questionnaires without making them available to the general public. On April 30, 1976, GAO provided clearance under number B-181231 (S76020).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-15820 Filed 5-28-76;8:45 am]

REGULATORY REPORTS REVIEW

Notice of Receipt and Approval of a Proposed Report

The following request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on May 5, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt and the action taken by GAO.

FEDERAL POWER COMMISSION

The Federal Power Commision requests clearance of a revision to FPC Form 69, Report of the Alternate Fuel Demand of Direct End Use Customers of Interstate Pipeline Companies Due to Natural Gas Curtailments, which is to be filed by all interstate pipeline companies. The revised form is required to determine the alternate fuel supplies that will be needed to meet the requirements of those end-use customers who will not be able to continue to satisfy their requirements with natural gas due to the imposition of increasing levels of curtailment upon such customers by interstate pipeline companies or foreign suppliers of natural gas. There will be approximately 115 respondents and it is estimated than an average of 115 manhours will be required per response.

The Federal Power Commission requested emergency clearance because it had notified respondents in April 1976 not to file the old Form 69 in anticipation of having a revised form cleared and ready for use. Therefore, the Federal Power Commission did not receive any quarterly information in April. The Federal Power Commission stated the need for this information on the revised form was imperative and it was needed as soon as possible so that it could evaluate upcoming summer curtailments and take appropriate action in a timely manner. Additionally, the Federal Power Commission stated that it was necessary for the FPC form to be compatible with a companion FEA form (G101-P-1) and that it was also important that both forms collect information at the same time so that comparative analysis could be done on the information submitted to both agencies.

GAO agreed with the emergency need for the FPC revised form and agreed to clear it in an expeditious manner. Our approval was given on May 14, 1976, under number B-180228 (RO206).

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.76-15821 Filed 5-28-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temporary Reg. F-388]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in intrastate telephone rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205 (d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Illinois Commerce Commission, involving the application of the Illinois Bell Telephone Company for increases in its intrastate rates and charges (Docket No. 76-0200).

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JACK ECKERD,
Administrator of General Services.

MAY 20, 1976.

[FR Doc.76-15703 Filed 5-28-76;8:45 am]

PRIVACY ACT OF 1974

Notice of Changes to Systems of Records

On August 27, 1975, there was published in the FEDERAL REGISTER (40 FR 39137 through 39195) notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a. This notice deletes two systems of records and amends one system of records.

The system of records identified as "Attorney Evaluations, GSA/OGC 1" is deleted.

The system of records identified as "Confidential Statements of Employment and Financial Interests, GSA/OGC 3" is deleted. (Note: This system is subsumed within the system designated "CSC/GOVT-2 Confidential Employment and Financial Interest Statements," which is under the authority of the United States Civil Service Commission and notice of which was published in the FEDERAL REGISTER on August 27, 1975, 40 FR 39245.)

The system of records identified as "Attorney Placement, GSA/OGC 2" is amended as follows:

1. The phrase "5 unique systems" is changed to "6 unique systems" wherever that phrase appears.

2. System location: Insert "Region 1" in the list of Offices of Regional Counsels.

3. Categories of records in the system: Insert "Region 1" in the list of Regional Counsel employees covered by the system.

4. System managers: Insert "Region 1" in the list of Regional Counsels who are system managers.

Dated at Washington, D.C., on May 24, 1976.

G. C. GARDNER,
Director of Administration.

[FR Doc.76-15715 Filed 5-28-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE ON STATISTICAL POLICY

Extension

Determination Pursuant to Executive Order 11769 (Advisory Committee Management) and Public Law 92-463 (Federal Advisory Committee Act).

In the determination order of the Director of the Bureau of the Budget, dated September 26, 1962, it was determined that the formation and continued use of the American Statistical Association Advisory Committee on Statistical Policy as an advisory committee to the Bureau of the Budget (now Office of Management and Budget) was in the public interest.

There has been no significant change in the facts relied upon to support the above mentioned determination order. The need for the Advisory Committee on Statistical Policy continues. Therefore, and for the reasons set forth in that Order, it is hereby determined that it would be in the public interest to extend the life of the American Statistical Association Advisory Committee on Statistical Policy.

The American Statistical Association Advisory Committee on Statistical Policy is hereby extended until June 30, 1978. The authority to make determinations as to the formation and utilization of advisory committees and panels of the Advisory Committee on Statistical Policy is hereby delegated to the Deputy Associate Director for Statistical Policy. That authority may be redelegated. All other

terms and conditions of the above mentioned determination order remain in effect.

Dated: May 24, 1976.

JAMES T. LYNN,
Director.

[FR Doc.76-15906 Filed 5-28-76;8:45 am]

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Extension

Determination Pursuant to Executive Order 11769 (Advisory Committee Management) and Public Law 92-463 (Federal Advisory Committee Act).

I have determined that the continued use of the Business Advisory Council on Federal Reports as an advisory committee to the Office of Management and Budget is necessary and in the public interest. This committee is necessary to assist me in carrying out more effectively the objectives and responsibilities designated to me in the Federal Reports Act, the Budget and Accounting Act of 1950, and Executive Order No. 8248, September 1939, especially as they relate to the business community.

The function of the Business Advisory Council on Federal Reports is to develop lists of businessmen and women who are expert in the recordkeeping practices of their particular industries and who are willing to make this expertise as to problems which may be encountered in obtaining answers to Federal Government inquiries available to the Office of Management and Budget at their own expense.

The Business Advisory Council on Federal Reports is hereby extended until June 30, 1978. The authority to make determinations as to the formation and utilization of advisory committees and panels of the Business Advisory Council is hereby delegated to the Deputy Associate Director for Statistical Policy. That authority may be redelegated. All other terms and conditions of the above mentioned determination order remain in effect.

Dated: May 24, 1976.

JAMES T. LYNN,
Director.

[FR Doc.76-15907 Filed 5-28-76;8:45 am]

LABOR ADVISORY COMMITTEE ON STATISTICS

Extension

Determination Pursuant to Executive Order 11769 (Advisory Committee Management) and Public Law 92-463 (Federal Advisory Committee Act).

It is determined that the continued use of the Labor Advisory Committee on Statistics as an advisory committee to the Office of Management and Budget is necessary and in the public interest. This committee is necessary to assist me in carrying out more effectively the objectives and responsibilities designated by the Federal Reports Act, the Budget and Accounting Act of 1950, and Executive Order No. 8248, September 1939, especially as they relate to organized labor.

The function of the Labor Advisory Committee on Statistics is to advise me of the needs of organized labor for statisical information and on matters affecting the usefulness of statistics compiled by the Federal Government in relation to those needs.

The Labor Advisory Committee on Statistics is hereby extended until June 30, 1978. The authority to make determinations as to the formation and utilization of advisory committees and panels of the Labor Advisory Committee on Statistics is hereby delegated to the Deputy Associate Director for Statistical Policy. That authority may be redelegated. All other terms and conditions of the above mentioned determination order remain in effect.

Dated: May 24, 1976.

JAMES T. LYNN,
Director.

[FR Doc.76-15908 Filed 5-28-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP ON ANTICIPATED ADVANCES IN SCIENCE AND TECHNOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Group on Anticipated Advances in Science and Technology.

Date: June 17, 1976.

Time: 9:00 a.m. to 4:00 p.m.

Place: Rm. 2008, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

Type of meeting: Open.

Contact person: Mr. William Montgomery, Special Assistant to the Director of Operations, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4061. Anyone planning to attend the meeting should contact Mr. Montgomery by June 10, 1976.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel & Mgmt., Rm. 212, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory group: To provide advice on developments that may take place in science and engineering and examine the national policy implications of these developments. This group will consider these subjects in a manner which will facilitate the planning for the new Office of Science and Technology Policy.

Agenda: 0900—Convene, Chairman's remarks; 0910—Final Report—Food and Nutrition Subgroup—H. Mark, et al.; 1000—Materials—J. Baldeschweiler; 1030—Basic Research, report of subgroup—C. Slichter; 1100—Discussion of issues—committee members; 1200—Lunch; 1245—Continue issue discussion; 1600—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 26, 1976.

[FR Doc.76-15737 Filed 5-28-76;8:45 am]

ADVISORY GROUP ON CONTRIBUTIONS OF TECHNOLOGY TO ECONOMIC STRENGTH

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Group on Contributions of Technology to Economic Strength.

Date: June 18, 1976.

Time: 9:00 a.m. to 4:00 p.m.

Place: Rm. 2008, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

Type of meeting: Open.

Contact person: Mr. Wiliam Montgomery, Special Assistant to the Director of Operations, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4061. Anyone planning to attend the meeting should contact Mr. Montgomery by June 11, 1976.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Div. of Personnel & Management, Rm. 212, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory group: To provide issues that may lead to policy supporting an improved utilization of technology and fostering economic strength. This group will consider these subjects in a manner which will facilitate the planning for the new Office of Science and Technology Policy.

Agenda: 0900—Convene, Chairman's remarks. 0910—Export of Technology; report of Defense Science Board Task Force — Charles Phipps, Corporate Development, Texas Instruments and Honorable Betsy Ancker-Johnson, Assistant Secretary of Commerce for Science and Technology. 1000—Foreign Licensing—Jack Baranson, President, Developing World Industry and Technology, Inc. 1020—Regulation for Health and Safety; report of subgroup—A. Bueche, et al. 1115—Discussion of issues—Committee members. 1200—Lunch. 1245—Continue issue discussion. 1600—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MAY 26, 1976.

[FR Doc.76-15738 Filed 5-28-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-133]

PACIFIC GAS AND ELECTRIC CO.

Order for Modification of License

In the Matter of Pacific Gas and Electric Company. Humboldt Bay Power Plant, Unit No. 3.

I. Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106 (licensee), is the holder of Operating License No. DPR-7 which authorizes the operation of nuclear power reactor Unit No. 3 at the Humboldt Bay Power Plant near Eureka, California, under certain conditions specified therein.

II. Appendix A (Technical Specifications) of the above referenced license requires that the nuclear steam supply system components, including the reactor vessel and its internals, shall be designed

to withstand and be able to operate under a seismic loading of 0.25 g. This seismic design criterion, based on a static loading method of analysis, was found acceptable by the former Atomic Energy Commission (predecessor to NRC) on August 28, 1962 and a provisional operating license was issued to the licensee. In connection with the Advisory Committee on Reactor Safeguards and AEC staff review of the licensee's application for a Full-Term Operating License, the licensee agreed to perform an updated seismic review to define the proper seismic accelerations and spectra applicable to the plant site and, if necessary, to perform a dynamic analysis of safety related components.

Following issuance of Full-Term Operating License No. DPR-7 on January 21, 1969, the licensee submitted updated geologic and seismic studies in April 1969 and a report on soil structure interaction was completed and submitted in May 1971. During the course of the review of the licensee's reports by the AEC staff (and its consultants, the U.S. Geological Survey and the National Oceanic and Atmospheric Administration) several areas were identified which required further study. These were discussed with the licensee and its consultants and were reflected in publicly available correspondence between the AEC staff and the licensee. Based on the AEC staff review of the seismic studies performed for the Humboldt Bay plant through 1973, it was determined that a seismic event of 0.25 g was appropriate as the Operating Basis Earthquake (OBE) for this site and that the dynamic response of the facility, as a result of a 0.25 g event could result in actual loads greater than those calculated for design purposes using a 0.25 g static load factor. Accordingly, an update of the seismic design analysis of safety related structures, systems, and components for this facility for the 0.25 g OBE was required. In addition, it was requested that the licensee provide additional data for geological and seismological determinations of the magnitude and location for the Safe Shutdown Earthquake (SSE), and data for determining the geological significance of the Little Salmon fault and the Bay Entrance fault.

The NRC staff has reviewed the reports submitted by the licensee during the conduct of the above programs. We have also evaluated pertinent information submitted by interested parties, concerning new interpretations of geologic evidence. Concurrently, the U.S. Geological Survey is also reviewing the seismicity and geology of the Humboldt Bay area.

Based on our review and evaluation the NRC staff has concluded that seismic qualification to the 0.25 g OBE of the safety related equipment currently addressed in the licensee's seismic design upgrading program should be completed in a timely manner. The licensee has stated its intent to perform the necessary modifications during the next refueling outage. The NRC staff has also concluded that, in the absence of seismic qualification of this equipment to the 0.25 g OBE, operation of the Humboldt Bay Nuclear Power Plant, Unit No. 3 should not be allowed beyond the next refueling outage. In addition, recently developed information indicates that the geological character of the Humboldt area may be substantially different than what was believed at the time of license issuance. Additional and timely investigations are needed to resolve the following concerns:

1. Determination of the location and the capability of the Bay Entrance and Little Salmon faults according to Section IIIg of Appendix A to 10 CFR Part 100;

2. The tectonic significance of the offsets in the ravine at Humboldt Hill and the quarry at Fields Landing;

3. The tectonic significance of the Freshwater and Table Bluff fault; and

4. The distribution of earthquakes in the region and their relationship to faulting.

During meetings with the licensee held in Bethesda on April 20 and 28, 1976, the NRC staff identified these geologic/seismic concerns and the specific information needed to resolve these issues. In addition the staff informed the licensee of its views concerning the importance of resolving these issues and completing the seismic design upgrading program for the 0.25 g OBE prior to returning Humboldt Bay Unit No. 3 to power from the next refueling outage. Additionally, it is expected that the Safe Shutdown Earthquake can be established following submittal of the information needed to resolve the above identified geologic/seismic concerns.

By letter dated May 11, 1976, the licensee stated its commitment to carry out additional studies to address the staff's geologic and seismic concerns, to seismically qualify the Humboldt Bay Power Plant's safety related equipment and to obtain the staff's approval with respect to the satisfactory resolution of these items prior to power operation following the 1976 refueling outage of the facility. In addition, the licensee committed to a July 2, 1976, commencement date for this outage.

The NRC staff has reviewed the licensee's submittal of May 11, 1976, and the commitments contained therein, and has concluded that the licensee's commitments adequately provide for the actions necessary for the resolution of the NRC staff's concerns. The NRC staff believes that the licensee's commitments, under the circumstances, are appropriate and that these commitments should be confirmed by NRC Order.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2, 50, and 100, It is ordered, That Facility Operating License No. DPR-7 is hereby amended by adding the following new provision as paragraph E:

E. By reason of the circumstances outlined in the Order for Modification of License, dated May 21, 1976 the licensee shall:

1. Using currently applicable methods, qualify by analysis and/or testing and modify or replace as necessary the safety related structures, systems and components of the facility to meet current regulatory requirements with respect to withstanding the effects of the Operating Basis Earthquake of 0.25 g. Structures, systems and components subject to this requirement are:

a. Reactor Coolant Pressure Boundary.
b. Reactor Core and Vessel Internals.
c. Low Pressure Core Spray System.
d. Emergency Condenser System.
e. Reactor Vent Valve System.
f. Reactor Scram System.
g. Liquid Poison System.
h. Spent Fuel Pool Cooling System.
i. Portions of Steam Systems from the Outermost Containment Isolation Valves up to or including the First Valve.
j. Emergency A-C Engine Generator Propane Tank and Fuel System.
k. Electrical and Mechanical Devices and Circuitry Involved in Generating Signals that Initiate Protective Action.
l. Systems required for Monitoring and/or Actuation of Systems Important to Safety.
m. Spent Fuel Storage.
n. Two Portable Gasoline Engine Driven Pumps.
o. Control Room.
p. Primary and Secondary Reactor Containment.
q. Radioactive Waste Systems.
r. Electrical Systems that Provide the Emergency Electric Power needed for Functioning of Plant Features Included in Items a through q Above.
s. Ventilation Stack.
t. Station Building.
u. Turbine Pedestal.
v. Structures or Components Whose Continued Function is not Required but Whose Failure Could Reduce the Function of above Items.

2. Conduct a geologic and seismic investigation program for which satisfactory completion will provide the following:

a. The Bay Entrance fault must be accurately located at its closest approach to the plant site. The attitude, extent, amount of displacement, and age of most recent movement on this fault must be determined. If this fault cannot be shown to be noncapable within the meaning of Appendix A, Section IIIg(1) it must be demonstrated that movement on it cannot be expected to cause surface displacement within the plant area.

b. The location and age of the Little Salmon fault must be clearly defined. In order to show the attitude of the fault plane it must be observed at a sufficient number of points to accurately determine its geometry. Its location with respect to the plant site must be determined and assurance that it is capped by a datable stratigraphic unit must be provided. The existence and configuration of the erosion surface at the base of the upper Carlotta formation, which is interpreted to truncate the fault, must be thoroughly demonstrated. An

upper limit for the age of last movement on the fault must be established by reliable dating techniques sufficient to demonstrate that the fault is noncapable.

c. Definitive evidence must be provided to show that the displacements in the ravine at Humboldt Hill and the quarry at Fields Landing are not of tectonic origin.

d. The Freshwater and Table Bluff faults must be investigated in sufficient detail to determine their seismic potential and relationship to the regional tectonic framework. If these faults cannot be shown to be noncapable within the meaning of Appendix A, Section IIIg, their structural relationship to the Little Salmon-Yager fault must be determined sufficient to demonstrate that movement on the Freshwater or Table Bluff faults could not be reasonably expected to be accompanied by movement on the Little Salmon-Yager fault (Appendix A, Section IIIg(3)).

e. The seismic monitoring network must be reinstated. One station of the reinstated seismic network must be located as close as possible to the Humboldt Plant and still maintain a background noise level similar to that of other stations in the network. The preferred location would be within 2 miles of the plant; e.g. a site between the plant and Buhne point. Deeper than normal burial should be considered as a possible means of reducing background noise. The purpose of this instrument is to resolve whether poorly recorded events are occurring close to the plant.

f. All earthquakes from past and future monitoring, must be listed, regardless of size, whose P–S intervals indicate possible location on the Bay entrance or other faults in the vicinity of the plant. If an event can be shown not to have occurred in the vicinity of the plant site (e.g. intersections of three P–S circles are distant from the site) so indicate and provide the alternative epicenters including an error estimate.

3. Commence a controlled shutdown of the facility by July 2, 1976, to begin the 1976 refueling outage. Commission approval by amendment to the license, with respect to the satisfactory completion of the requirements listed in items 1 and 2 a, b, c, e, and f above, is required prior to power operation following the 1976 refueling outage. The results of the licensee's investigations for item 2d above will be submitted by the end of 1976 but need not necessarily be completed or found acceptable prior to return to power operation.

This order shall become effective immediately upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 21st day of May 1976.

BEN C. RUSCHE,
Director, Office of Nuclear Reactor Regulation.

[FR Doc.76–15718 Filed 5–28–76;8:45 am]

[Docket No. 50–333]

POWER AUTHORITY OF THE STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR–59 issued to the Power Authority of the State of New York and the Niagara Mohawk Power Corporation which revised the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant, located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to provide for a reduction in the operating minimum critical power ratio consistent with low core exposure while preserving the existing safety margin.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) application for amendment submitted by letter dated May 5, 1976, (2) Amendment No. 18 to License No. DPR–59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego City Library, 120 East Second Street, Oswego, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 21st day of May 1976.

FOR THE NUCLEAR REGULATORY COMMISSION.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.76–15779 Filed 5–28–76;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.84, Revision 6, "Code Case Acceptability—ASME Section III Design and Fabrication," and Regulatory Guide 1.85, Revision 6, "Code Case Acceptability—ASME Section III Materials," list those Code Cases that are generally acceptable to the NRC staff for implementation in the licensing of light-water-cooled nuclear power plants. These two guides were revised to update the listings of acceptable Code Cases.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 24th day of May 1976.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.76–15720 Filed 5–28–76;8:45 am]

POSTAL RATE COMMISSION

MARKET RESEARCH DIVISION

Visit to Postal Facilities

MAY 25, 1976.

Notice is hereby given that employees of the Postal Rate Commission will be visiting the Market Research Division, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, West, on June 3, 1976, for the general purpose of obtaining information on market research studies conducted by the Postal Service.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

By direction of the Commission.

DAVID F. HARRIS,
Acting Secretary
of the Commission.

[FR Doc.76-15709 Filed 5-28-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Administrative Proceeding File Nos. 3-4754; 581-187]

HOTEL TAFT ASSOCIATES

Application and Opportunity for Hearing

MAY 19, 1976.

Notice is hereby given that Hotel Taft Associates ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for a finding that an exemption from the requirement to file reports on Forms 10-Q and 10-K pursuant to Section 13 of the 1934 Act would not be inconsistent with the public interest or the protection of investors.

Section 13 provides that each issuer of a security which is registered pursuant to Section 12 of the 1934 Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current, and quarterly reports.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or calss of issuers from the periodic reporting provisions of Section 13 if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

(1) Applicant, a New York general partnership, was formed in 1957 to acquire title to the Hotel Taft and the land on which that hotel is situated (together referred to hereinafter as the "Hotel").

(2) In 1958, Applicant made a public offering of participations in general partnership interests registered under the Securities Act of 1933. In 1965, the participations were registered under Section 12(g) of the 1934 Act.

(3) In 1974, Applicant sold the Hotel. The terms of the sale were the assumption by the purchaser of the existing first mortgage on the Hotel and the issuance by the purchaser of a $500,000 promisory note secured by a second mortgage on the Hotel. In 1975, the holder of the first mortgage on the Hotel brought an action to foreclose on its mortgage. As Applicant does not intend to contest the action, it is probable that its second mortgage will be cancelled and it will receive no further payments of interest or principal on the note.

(4) Applicant's only other assets are notes of Longchamps, Inc., a corporation now in reorganization under Chapter XI of the Bankruptcy Act. There is no assurance that any payments on those notes will be received in the future.

(5) Applicant has sent to holders of its participations an annual report for the year ending December 31, 1975, with certified financial statements for that period.

(6) Applicant intends to continue to file current reports on Form 8-K.

In the absence of an exemption, Applicant would be required to file a report on Form 10-K for the year ending December 31, 1975 and all reports on Forms 10-Q and 10-K due subsequently.

Applicant contends that it has no income to defray the cost of preparation of such reports.

For a more detailed statement of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than June 14, 1976 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, and order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-15813 Filed 5-28-76;8:45 am]

[Release No. 19543; 70-5864]

GEORGIA POWER CO.

Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

MAY 24, 1976.

In the Matter of Georgia Power Company, 270 Peachtree Street, NW., Atlanta, Georgia 30303.

Notice is hereby given that Georgia Power Company ("Georgia"), an electric utility subsidiary company of The Southern Company ("Southern"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Georgia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $50,000,000 principal amount of its First Mortgage Bonds, % Series. The proposed series of bonds will bear a maturity date within the range of 5 to 30 years, such maturity date will be determined by Georgia after the date of public invitation for proposals. The interest rate and the price, exclusive of accrued interest, to be paid to Georgia (which will be not less than 98% nor more than 102¾% of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture, dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of July 1, 1976, which includes a prohibition until July 1, 1981, against refunding the bonds with or in anticipation of the proceeds from borrowings at a lower effective interest cost. Georgia further states it may request, by amendment, the sale of its bonds be excepted from the competitive bidding requirements of Rule 50.

Georgia further proposes to issue up to 2,000,000 shares of Class A Preferred Stock and to sell, at competitive bidding, such securities for the best price obtainable but for a price to Georgia of not less than $25 per share nor more than $25.50 per share, which shall also be the public offering price of such shares. In addition, Georgia proposes to pay the purchasers of the preferred stock compensation for their services in purchasing and making a public offering of such shares. The terms of the Class A Preferred Stock will be established by amendment to the Charter of Georgia which will include a prohibition against redeeming said stock prior to July 1, 1981, if such redemption is for the purpose or in anticipation of refunding the stock with funds obtained at a lower cost of money. Georgia also proposes to make provision for a cumulative sinking fund for the benefit of the Class A Preferred Stock which would retire not more than 5% annually of the number of shares initially issued, commencing five years after the sale, with the noncumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming an additional like number of shares. Georgia further states that it may request by amendment that the sale of preferred stock be excepted from the competitive bidding requirements of Rule 50.

Georgia will apply the proceeds from the sale of the bonds and preferred stock, together with (1) cash contributions to capital of $50,900,000 by Southern during 1976 (File No. 70-5797), (2) the proceeds from the sales of certain properties to Oglethorpe Electric Membership Corporation and others, (3) funds provided through the issuance of tax-exempt revenue bonds by public authorities for construction of certain pollution control

facilities, (4) any excess cash on hand to finance in part its 1976 construction program (estimated at $409,509,000) and to pay notes payable incurred for construction purposes. Georgia estimates that it will not be necessary to sell any additional securities in 1976 for construction purposes except for the issuance and sale of short-term notes to banks. Georgia estimates that no notes payable will be outstanding at December 31, 1976.

It is stated that Georgia Public Service Commission has jurisdiction over the proposed issuance and sale of the bonds and preferred stock of Georgia. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees and expenses to be incurred in connection with the transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than June 17, 1976, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said dates, the application as filed or as it may be amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-15812 Filed 5-28-76;8:45 am]

[Release No. 34-12478; File No. SR-NYSE-76-31]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(1)), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on May 14, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NYSE's STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The recent amendments to the Securities Exchange Act of 1934 require, effective December 1, 1975, that the Exchange adopt rules, in accordance with specific standards, providing a fair procedure for determining whether an applicant will be approved or rejected as a member or person associated with a member, or prohibited as a member or person associated with a member, or prohibited from or granted only limited access to services offered by the Exchange or any member.

The 1975 amendments require that, at a minimum, these procedures provide for notification to the applicant; an opportunity to be heard on the application and, if denied, the specific grounds for denial; the right to appeal to the SEC; and the maintenance of a record of the proceeding.

2. NYSE's STATEMENT OF PURPOSE OF THE PROPOSED RULES

The Securities Acts Amendments of 1975 (the 1975 Amendments) require that the Exchange adopt rules providing a fair procedure for determining whether an applicant will be approved or rejected as a member or person associated with a member, or prohibited from or granted only limited access to services offered by the Exchange or any member thereof.

The Exchange has reviewed the existing procedures for approval of applicants in light of the 1975 Amendments and has concluded that the current procedures should be supplemented to meet certain of the minimum standards set forth therein. The Exchange believes the most practical means of complying with the new legislative requirements in this area would be to adopt rules which provide for the following:

(1) Approval of all applications by the staff in cases where no problem exists.

(2) Where a problem does exist, review by an Acceptability Committee of three Exchange officers; and

(3) Specific provision for review of decisions of the Acceptability Committee by the Board of Directors.

3. NYSE's STATEMENT OF BASIS UNDER THE ACT

The amendments referred to herein are based on Sections 6(b)(7) and 6(d)(2) of the Securities Exchange Act of 1934 (the Act).

(i) The amendments referred to herein relate to the Exchange's capacity and ability to carry out the purposes of the Act by establishing procedures in compliance with Section 6(b)(7) and 6(d)(2) of the Act. These procedures are as follows:

All member, associated person and accessee applications would be submitted to the appropriate departments of the Exchange for investigation and review. Where no problem of acceptability exists, the staff would approve the application. In this regard, the amendments to the Constitution which reduce from two-thirds to a simple majority, the vote of directors required to approve members, allied members, and approved persons will enable the Exchange's Board of Directors to delegate to the staff the ability to make such decisions. The reduction of from a two-thirds to a majority vote was necessary under New York law in order to enable the Board to delegate responsibility for approving applications to the staff.

Where, after investigation, the staff of the Exchange determines that a serious question exists as to an applicant's acceptability, all relevant information would then be forwarded to the appropriate officer of the Exchange. If that officer is unwilling to approve the application on the basis of the information presented, the matter would then be referred to an Acceptability Committee composed of three Exchange officers to be appointed from time to time by the Chairman of the Board of Directors of the Exchange.

In conformity with the procedures set forth in Rule 308, the Acceptability Committee would, upon notice to and opportunity for the applicant to be heard, consider all relevant material and testimony bearing on the issue of the applicant's acceptability, approve or disapprove the application—by majority vote—and prepare a detailed statement explaining the reason for the decision in each case. A record would be kept of all such hearings.

Notification of an Acceptability Committee's decision would be sent promptly to all interested parties, including the applicant, the member or member organization involved, the Board, and the appropriate Exchange department.

Decisions of an Acceptability Committee would be reviewable by the Board in accordance with the procedures set forth in Rule 308, thus disputed questions would continue to be resolved by the Board.

If found unacceptable, an applicant would not be eligible to reapply to the Exchange for approval in a similar capacity for a period of three years unless the Exchange specifies a different period. All reapplications by persons previously found unacceptable in accordance with the procedures contained in Rule 308 may not be found acceptable on a reapplication except pursuant to a decision by an Acceptability Committee or the Board on review thereof.

(ii) The amendments referred to herein relate to the ability of persons to become members or associated persons of members by establishing fair procedures to be used in situations where the Exchange may seek to deny or limit the ability of a person to become a member or person associated with a member.

(iii) Inapplicable.

(iv) Inapplicable.

(v) Inapplicable.

(vi) Inapplicable.

(vii) As discussed hereinabove, the amendments are designed to comply with the requirements of Section 6(b)(7) and 6(d)(2) of the Act by establishing fair procedures to be used in all proceedings brought to determine whether a person shall be denied membership, barred from

becoming associated with a member, or prohibited or limited with respect to access to services offered by the Exchange. These amendments provide for all the due process required by Section 6(d)(2).

4. COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE

No comments were solicited or received with respect to the amendments filed herewith.

5. BURDEN ON COMPETITION

Inapplicable.

On or before July 6, 1976, or within such longer period (i) as the Commission may designate on or before August 30, 1976, 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 on or before July 1, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MAY 24, 1976.

TEXT OF RULE 308—ACCEPTABILITY PROCEEDINGS

(a) The Exchange may disapprove (i) the application of a prospective member or member organization; or (ii) the application for employment or association with a member or member organization, any prospective member, allied member, approved person, registered representative, or other person required by the Constitution or Rules thereunder to be approved by the Exchange; or (iii) any change in the status of any person which change requires approval of the Exchange; or (iv) the application of any non-member broker/dealer accessee as provided for in the Exchange Constitution and rules thereunder, or in the Securities Exchange Act of 1934, as amended.

(b) Prior to disapproval of any such application, the Exchange shall conduct a proceeding which shall be instituted by the preparation of a written memorandum setting forth the pertinent information relevant to the issue of the applicant's acceptability, including the specific grounds for disapproval under consideration, and shall furnish a copy thereof to the applicant and to an Acceptability Committee referred to herein. The applicant shall be given not less than 15 days prior written notice of the date on which the Acceptability Committee is to consider disapproving the application. A written record shall be kept of the proceedings before any Acceptability Committee.

(c) Any Acceptability Committee under this Rule shall be comprised of three Exchange officers, at least two of whom shall be officers of the Regulation & Surveillance Group, appointed from time to time by the Chairman of the Board of Directors.

(1) The membership of each Acceptability Committee shall designate from among themselves that person who shall serve as Chairman.

(2) The decision of a majority of the members of an Acceptability Committee shall be final, except as provided in paragraph (f) below.

(d) If the application is disapproved, the applicant may not reapply to the Exchange for approval in a similar capacity for a period of three years unless otherwise permitted by the Acceptability Committee or the Exchange.

(e) The determination of an Acceptability Committee shall become final twenty days after notification thereof to the applicant, provided, however, that if a request for review of such determination is filed as hereinafter provided, the determination shall be stayed pending the outcome of that review.

(f) Any person whose application, has been disapproved by an Acceptability Committee, or any member of the Board of Directors of the Exchange may require a review by the Board of any determination of an Acceptability Committee. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, within twenty days after notification of the determination of the Acceptability Committee. Upon review, the Board of Directors may sustain any determinationfi or may modify or reverse any such determination as it deems appropriate. The determination of the Board of Directors shall be final and conclusive action by the Exchange.

(*New language in italics,* Deleted language in brackets [ ])

TEXT OF AMENDMENTS TO RULE 301—SUPPLEMENTARY MATERIAL

.20 Approval by Board of Directors.—A transfer of a membership in the Exchange requires approval of the Board of Directors [by the affirmative vote of two-thirds of the Directors present at a meeting of the Board] (Art. XI, Sec. 1 (¶1501].)

Other pertinent provisions of the Constitution are as follows:

Eligibility for membership and procedure on election, Article IX [¶1401–1416]

Dues, Article X [¶1451–1457]

Transfer of membership and disposition of proceeds, Article XI [¶1501–1513]

Gratuity Fund—Payments and benefits, Article XVI [¶1751–1758]

.24

* * * * *

A casual social or business acquaintance is not sufficient basis to qualify a member or an allied member as a sponsor.

The sponsors are required to read and sign the candidate's application and [ordinarily, are also] *may be* required to appear with an applicant at the time the applicant is presented for consideration.

.26 Posting—The Constitution provides that at least ten days must elapse between posting of a notice of a proposed transfer of membership and [balloting by the Board of Directors] *consideration* [by the Board] *of the proposed transfer.* (Art. XI, Sec. 1 [§ 1501]). Notice of a proposed transfer is posted on the bulletin board of the Exchange and published in the Weekly Bulletin of the Exchange upon the submission, in proper form, of all required documents. [The notice is ordinarily posted after the appearance of the applicant.]

.27 Payments to be made on day of *approval of the transfer* [election.] — On the day on which the *application* [Board of Directors] is scheduled to *be considered,* [ballot on his application] the proposed member must deposit with the Exchange the balance of the purchase price of his membership, an initiation fee of $7,500 to the Exchange (Art. IX, Sec. 4 [(§ 1404]), an initial contribution to the Gratuity Fund of $15 (Art. XVI, Sec. 1 [§ 1751]), and the unexpired portion of the transferor's dues for the then current quarter. (Art. X, Sec. 4 [§ 1454].)

TEXT OF AMENDMENTS TO RULE 345

Rule 345

(a) No member or member organization shall

(1) Permit any person to perform regularly the duties customarily performed by a registered representative, unles ssuch person shall have been registered with and is acceptable to the Exchange;

(2) Permit any registered representative or other person in a nominal position because of the business obtained by such person, or

(3) Employ any person not otherwise required to be registered with and approved by the Exchange prior to obtaining the approval of the Exchange if such member of member organization knows, or in the exercise of reasonable care should know, that such person is subject to one or more statutory disqualifications referred to in the Securities Exchange Act of 1934, as amended.

(b) No member corporation shall permit any person to assume the duties of an officer unless such corporation has

filed an application with and received the approval of the Exchange.

[(c) The Exchange may disapprove the employment of any person.]

[(d)]c(1) If the Exchange determines that any employee [or prospective employee] of a member or member organization (aa) has violated any provision of the Constitution or of any rule adopted by the Board of Directors, (bb) has violated any of his agreements with the Exchange, (cc) has made any misstatement to the Exchange, or (dd) has been guilty of (i) conduct inconsistent with just and equitable principles of trade, (ii) acts detrimental to the interest or welfare of the Exchange, or (iii) conduct contrary to an established practice of the Exchange, the Exchange may withhold, suspend or bar such person from employment by a member or member organization; may fine such employee [or prospective employee $5,000] for each such violation, misstatement, or act or omission for which he has been found guilty; and may direct that he be censured. The Exchange shall disclose publicly bars or suspensions of employees and former employees. The Exchange may, in its discretion, disclose publicly censures and fines, censures or fines. The total of the fines which may be imposed upon any employee or [prospective employee] at any one time shall not exceed $25,000.

(2) Disciplinary proceedings in which charges are brought against a registered employee, or non-registered employee [or prospective employee] shall be held before a Hearing Panel consisting of at least three persons: a Hearing Officer, who shall be Chairman of the Panel, with the remainder of the Panel being members of the Hearing Board who shall be registered employees and/or non-registered employees of members, member firms and member corporations who are not members, allied members or approved persons. For all purposes of this Rule, the decision of a majority of the Panel shall be the decision of the Panel and shall be final and conclusive, except as hereinafter provided.

An accusation, charging a registered employee, *or* non-registered employee [or prospective employee] before a Hearing Panel with having committed an offense, shall be in writing: it shall specify the charge or charges against such registered employee, *or* non-registered employee [or prospective employee] with reasonable detail, and shall be signed by the person or persons making the charge or charges. A copy of such charge or charges, together with a copy of any transcript of testimony or other documents which the person or persons making the charge or charges intends to furnish to the Panel prior to the hearing of such charge or charges, shall be served upon the accused registered employee, *or* non-registered employee [or prospective employee] personally, or by leaving the same during business hours at the office address of the registered employee, *or* non-registered employee [or prospective employee] or by mailing it to him at his place of residence. The accused shall have twenty days from the date of such service to answer the same, or such further time as the Exchange may deem proper. The answer shall be in writing, signed by or on behalf of the accused and filed with the Secretary of the Exchange. The answer shall indicate specifically which statements of alleged fact contained in the charge or charges are denied and which are admitted.

Any such statements in the charge or charges not specifically denied shall be deemed to be admitted. The answer shall also contain in reasonable detail any affirmative defense which the accused wishes to submit and shall include any documents which the accused intends to submit in support of the answer. Upon the answer being filed, or if the accused shall refuse or neglect to make answer as hereinbefore provided, the Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. Notice of such hearing shall be sent to the accused, who shall be entitled to be personally present thereat. The Hearing Officer shall determine the specific facts put into issue by the charge or charges and the answer, and with respect to those facts only, the person or persons making the charge or charges may produce witnesses and any other evidence and the accused may examine and cross-examine any witnesses so produced; the accused may also present such testimony or other evidence with respect to the facts so designated by the Hearing Officer as well as such testimony, defense or explanation as the accused may deem proper with respect to the charge or charges. Any witnesses produced by the accused, shall be subject to cross examination. After hearing all the witnesses and the accused, if the accused desires to be heard, the Panel shall determine whether the accused is guilty of the offense or offenses charged. If it determines that the accused is guilty, the Panel may fix and impose the penalty and a written notice of the result shall be served upon the accused in the manner hereinbefore provided. The determination of the Hearing Panel and any penalty imposed shall become final and conclusive twenty days after notification thereof to the accused, provided, however, that if a request for review of such determination or penalty, or both is filed as hereinafter provided, the penalty shall be stayed pending the outcome of such review.

Any accused registered employee *or* non-registered employee [or prospective employee], the party bringing the charges or any member of the Board of Directors of the Exchange may require a review by the Board of any determination or penalty, or both, imposed by a Hearing Panel.

A request for review shall be made by filing with the Secretary of the Exchange a written request therefor, within twenty days after notification of the determination and penalty, if any, is given to the accused.

Upon review, the Board of Directors, by the affirmative vote of a majority of the Directors then in office, may sustain any determination or penalty imposed, or both, may modify or reverse any such determination and may increase, decrease or eliminate any such penalty, or impose any penalty permitted under the provisions of this Rule, as it deems appropriate. The determination and penalty, if any, of the Board of Directors after review shall be final and conclusive.

In addition to the foregoing, a Hearing Panel at a hearing called for that purpose may determine whether any registered employee *or* non-registered employee [or prospective employee] is guilty of having committed an offense on the basis of a written stipulation of facts and consent to a specified penalty entered into between the accused and any officer of the Exchange. In any such case, the Panel may fix and impose the penalty agreed to in such stipulation and consent or any lesser penalty, or reject such consent, and a written notice of the result shall be served upon the accused in the manner hereinabove provided. The determination of the Hearing Panel and any penalty imposed shall become final and conclusive twenty days after notification thereof to the accused, provided, however, that if a request for review of such determination or penalty, or both, is filed as hereinafter provided, the penalty shall be stayed pending the outcome of the review.

Any member of the Board of Directors of the Exchange may require a review by the Board of any determination or penalty, or both, imposed by the Hearing Panel in connection with a written stipulation of facts and consent to a specified penalty. A request for review shall be made by filing with the Secretary of the Exchange a written request therefor within twenty days after notification of the determination and penalty, if any, is given to the accused. Upon review, the Board of Directors by the affirmative vote of a majority of the Directors, then in office, may fix and impose the penalty agreed to in such stipulation and consent or any lesser penalty, or reject such consent as it deems appropriate. The determination and penalty, if any, of the Board of Directors after review shall be final and conclusive.

Any registered employee, *or* non-registered employee [or prospective employee] shall have the right to be represented by legal or other counsel in any hearing and review held pursuant to the provisions of this Rule and in any investigation before any committee officer or employee of the Exchange authorized by the Board of Directors.

(d) [(e)] Whenever a person who is a registered * * *

* * * * *

1.15 Acceptability.—

A. Officers: In determining an individual's acceptability for approval as an officer, the Exchange looks for evidence of the integrity of the individual and record of high standards of business con-

duct, as shown in the Exchange's investigations and in the investigations and observations of his member corporation employer, previous employers, education institutions attended, etc.

B. Registered Representatives: In determining a candidate's acceptability for registration, the Exchange looks for evidence of:

(1) The integrity of the candidate and his record of high standards of business conduct, as shown in the Exchange investigations and in the investigations and observations of his member firm employer, previous employers, educational institutions attended, etc.

(2) His potential ability to perform creditably the duties of a registered representative, as shown by an employment period of specific training for these duties in a member firm office or equivalent other experience in the securities business.

(3) His preparation in the areas of knowledge necessary for a registered representative as demonstrated in an Exchange examination.

Age.—A candidate for registration must be at least 21 years of age.]

.15 Training—The usual requirements for training candidates without previous actual experience is four months.

The training period may be reduced or waived by the Exchange if the candidate for registration has had some previous actual experience in the securities business as a principal or employee, or in a closely allied field (such as a bank trust officer).

TEXT OF AMENDMENTS TO ARTICLE IX, SECTIONS 3, 7(a), 15

Sec. 3. [The affirmative vote of two-thirds of the Directors present at a meeting of the Board shall be necessary to elect to membership or to reinstate a member suspended for insolvency, except that the affirmative vote of two-thirds of the Directors then in office shall be required for the readmission of a person who has been expelled from the Exchange or declared ineligible for reinstatement.] *The Board of Directors may approve as a member any person eligible for membership or reinstate a member suspended for insolvency or readmit a person who has been expelled from the Exchange.*

* * * * *

§ 7. (a) No partnership or corporation shall become or remain a member firm or member corporation and no person shall become or remain an allied member or approved person unless approved by the Board of Directors. [The affirmative vote of two-thirds of the Directors present at a meeting of the Board shall be required for any approval required by this Section other than any approval required by subsection (g) of this Section, except that the affirmative vote of two-thirds of the Directors then in office shall be required to approve any person who has been expelled from the Exchange or declared ineligible for reinstatement or whose approval has been previously withdrawn.]

* * * * *

Sec. 15. The Board of Directors, may, [by the affirmative vote of two-thirds of the Directors present at a meeting of the Board] on the request of a member who, in time of national emergency for this country,

(a) Is on active duty in the armed forces of the United States, or

(b) Is on active duty in the armed forces of any nation or State which is then allied or associated with the United States, or

(c) Is engaged in any public service incident to the national defense,

authorize a general partner of such member or a holder of voting stock in the member corporation in which such member is a holder of voting stock to transact in the place and stead of such member the usual business of such member on the Floor of the Exchange, under such terms and conditions and to such extent as the Board may prescribe. Every contract made on the Floor by any alternate shall have the same force and effect as if it had been made by the member for whom he is acting, and a member for whom an alternate is acting shall be liable to the same discipline and penalties for any act or omission of such alternate as for his own personal act or omission.

The Board of Directors may, [by the affirmative vote of two-thirds of the Directors present at a meeting of the Board,] withdraw such privilege for any cause or without cause.

Sec. 1. A transfer of membership may be made upon [submission of the name of the candidate to the Board of Directors and] the approval of the transfer by the [affirmative vote of two-thirds of the Directors present at a meeting of the] Board. Notice of the proposed transfer shall be posted on the bulletin board for at least ten days prior to transfer, which notice shall specify the date on which the proposed transfer will be considered. [by the Board of Directors.] Consideration of a proposed transfer may be postponed from time to time [by the Board]. Notice of the date of such postponed consideration shall be posted promptly on the bulletin board.

TEXT OF AMENDMENTS TO ARTICLE XIII, SECTIONS 5 AND 6

Sec. 5. A member, allied member, member firm or member corporation suspended under the provisions of this Article may, at any time, be reinstated by the [affirmative vote of two-thirds of the Directors present at a meeting of the] Board of Directors.

[Sec. 6. Whenever the Board of Directors shall determine, following a procedure substantially similar to that provided for in Section 14 of Article XIV that a member or allied member suspended under the provisions of this Article has been guilty, of irregularities or unbusinesslike dealing, such member or allied member may, by the affirmative vote of two-thirds of the Directors then in office, be declared ineligible for reinstatement.]

[FR Doc.76-15814 Filed 5-28-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

SAN DIEGO DISTRICT ADVISORY COUNCIL

Public Meeting

No. 71778, Pauley, J. E., 5-28-76

The Small Business Administration San Diego District Advisory Council will hold a public meeting at 4:00 p.m., Thursday, June 17, 1976, at the Small Business Administration office, 110 W. C Street, Suite 705, San Diego, California 92101, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. For further information write or call F. D. Sergent at the above address, (714) 895-5430.

MARY LOU GRIER,
Deputy Advocate for Advisory Council.

MAY 18, 1976.

[FR Doc.76-15706 Filed 5-28-76;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Notice of Meeting

Notice is hereby given to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances, that on June 22, 1976, at 1:30, the VA Center, Togus, Maine, Station Committee on Educational Allowances shall at building 205, Room 306G, VA Center, Togus, Maine, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Northeast School of the Bible, South Berwick, Maine, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met, or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: May 24, 1976.

R. H. WALLACE,
Director, VA Center.

[FR Doc.76-15828 Filed 5-28-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON AGRICULTURE

Meeting and Request for Information

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Standards Advisory Committee on Agriculture, established under section

7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on June 28, 29 and 30, 1976, in Sacramento, California at 9:00 a.m. each day. The meeting will be held in the Camellia Room, Quality Inn/Woodlake, 500 Leisure Lane, Sacramento, California.

The meeting shall be open to the public. It is planned that subgroups will meet on the following topics: education, oversight, the definition of "agricultural operations," and anhydrous ammonia. The committee will meet in full session to obtain reports on the activities of the subgroups. It is possible that the full committee will also consider the final recommendations of the Subgroup on electrical hazards. It is planned that on June 29 the committee will tour local agricultural operations after hearing presentations by State and local authorities on related agricultural safety and health issues.

The Committee herein requests information, preferably documented, concerning educational programs which would be suitable for inclusion in a standard as well as recommendations on the kind of educational package which would be appropriate to accompany an OSHA standard. The Committee also solicits comment on any of the items under discussion, particularly the definition of "agricultural operations."

Any member of the public wishing to submit written presentations to the Committee may do so by filing such a statement, preferably with 20 duplicate copies, with the Committee Management Officer. Such submissions will be provided to the members of the Committee and be included in the record of the meeting.

The Committee Chairperson may permit oral statements before the Committee by interested persons. Consequently, persons desiring to make an oral presentation to the Committee should submit a written request to be heard to the Committee Management Officer. The request must include the name and address of the person wishing to appear, the capacity in which he will appear, a short summary of the intended presentation, and the approximate amount of time required for his presentation. Such requests will be provided to the Committee Chairperson for consideration.

Communications and questions about the proceedings should be addressed to:

Jeanne C. Werner, OSHA Committee Management Officer, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N-3635, Washington, D.C. 20210, Phone: (202) 523-8024.

All materials which have been submitted to or developed by the Committee since the beginning of the deliberations, as well as the official record of all Committee proceedings, are available for public inspection and copying at the above location.

Signed at Washington, D.C., this 26th day of May 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-16002 Filed 5-28-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 59]

ASSIGNMENT OF HEARINGS

MAY 26, 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.

MC 41404 Sub-122, Argo Collier Truck Lines, now assigned July 27, 1976 (1 day) at New Orleans, Louisiana is canceled and transfered to Modified Procedure.

No. 36340, *The Salt River Project Agricultural Improvement and Power District v. The Atchison, Topeka & Santa Fe Railway Company* and No. 36340 Sub-1, *The Salt River Project Agricultural Improvement and Power District* v. *Southern Pacific Transportation Company* now being assigned September 14, 1976 (4 days), at Phoenix, Ariz., in a hearing room to be later designated.

MC 141722, Norm's Delivery Service, Inc. now assigned July 8, 1976 (2 days) at Los Angeles, California in a hearing room to be later designated.

MC 125433 (Sub-No. 62), F-B Truck Line Company, now assigned June 2, 1976, at Portland, Oreg., is canceled and application dismissed.

MC 56679 (Sub-No. 84), Brown Transport Corp. now assigned June 7, 1976 (2 weeks) at Chattanooga, Tennessee and will be held at the Holiday Inn, Interstate 24.

MC 125433 Sub-71, F-B Truck Line Company, A Corporation, now being assigned July 23, 1976 (1 day), at San Francisco, Calif., in a hearing room to be later designated.

MC 139495 Sub-128, National Carriers, Inc., and MC 138635 Sub-21, Carolina-Western Express, Inc., now being assigned August 2, 1976 (1 Week), at San Francisco, Calif., in a hearing room to be later designated.

MC 130253 (Sub-No. 1), Douglas Stoffers and Micheal J. O'Meara, a Partnership, now assigned June 8, 1976, at Madison, Wis. is postponed indefinitely.

MC 141021, Petroleum Transport, Inc., now assigned June 28, 1976, at Baton Rouge, La. is canceled and application dismissed.

MC 113325 (Sub-141), Slay Transportation Co., Inc. now assigned July 26, 1976 (2 days) at Chicago, Illinois is canceled, application dismissed.

I&S M 28971, Increased Passenger Fares, Hudson Transit Lines, Inc. now assigned June 21, 1976 (1 week) at New York, New York and will be held in Room E-2222, Federal Building, Federal Plaza.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-15872 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 1, Exemption No. 121]

BALTIMORE AND OHIO RAILROAD CO. ET AL.

Exemption Under Provisions of Mandatory Car Service Rules

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Norfolk and Western Railway Company, Western Maryland Railway Company.

Upon further consideration of Exemption No. 121 issued March 29, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15869 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 1, Exemption No. 122]

BALTIMORE & OHIO RAILROAD CO. ET AL.

Exemption Under Provision of Mandatory Car Service Rules

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Consolidated Rail Corporation, Western Maryland Railway Company.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15873 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 2, Exemption No. 108]

CHICAGO & EASTERN ILLINOIS RAILROAD CO. ET AL.

Exemption Under Provision of Mandatory Car Service Rules

To: Chicago & Eastern Illinois Railroad Company, Consolidated Rail Corporation, Missouri-Illinois Railroad Company, Missouri Pacific Railroad Company, The Texas and Pacific Railway Company.

Upon further consideration of Exemption No. 108 issued March 1, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 108 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15866 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 7, Exemption No. 93]

GRAND TRUNK WESTERN RAILROAD CO. AND CONSOLIDATED RAIL CORPORATION

Exemption Under Provision of Mandatory Car Service Rules

Upon further consideration of Exemption No. 93 issue January 15, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 93 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15866 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 2, Exemption No. 109]

NORFOLK AND WESTERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

Upon further consideration of Exemption No. 109 issued March 2, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 109 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C., May 24, 1976.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15867 Filed 5-28-76;8:45 am]

[Rule 19, Ex Parte No. 241; Amdt. No. 14, Exemption 55]

NORFOLK AND WESTERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

Upon further consideration of Exemption No. 55 issued October 31, 1973.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1976.

This amendment shall become effective May 31, 1976.

Issued at Washington, D.C. May 24, 1976.

INTERSTATE COMMERCE, COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.76-15874 Filed 5-28-76;8:45 am]

[Notice No. 261]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76532, filed May 12, 1976. Transferee: TROWBRIDGE STORAGE COMPANY, 1513 Alum Creek Drive, Columbus, Ohio 43209. Transferor: ATLAS MOVING & STORAGE COMPANY, 1513 Alum Creek Drive, Columbus, Ohio 43209. Applicants' representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 74745 and MC 74745 (Sub-No. 2), issued April 4, 1961, and November 17, 1969, respectively as follows: MC 74745—*Household goods,* as defined by the Commission, between points in Franklin County, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Michigan, Pennsylvania, West Virginia, Kentucky, and Ohio. MC 74745 (Sub-No. 2)—*Used household goods,* between points in Delaware, Fairfield, Franklin, Guernsey, Licking, Madison, Muskingum, Pickaway, and Union Counties, Ohio, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Applicants are filing concurrently herewith an Elimination of Gateway application. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 61614. Application has not been filed for temporary authority under Section 210a(b).

No. MC 76541 (Correction), filed May 9, 1976. Transferee: RICHARD J. STEIGERWALT, R. D. No. 5, Box 76-C, Skyline Drive, Leighton, Pennsylvania 18234. Transferor: MICHAEL C. NARO, R. D. No. 1, Gouldsboro, Pennsylvania 18424. Applicants' representative: Joseph F. Hoary, 121 S. Main Street, Taylor, Pennsylvania 18517. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 138836 (Sub-No. 1), issued May 3, 1976, as follows: Scrap iron and scrap metals, not in containers, from Scranton and Archbald, Pa., to Newark, High Bridge, Harrison, Jersey City, Phillipsburg, New Brunswick, Mahwah, and Trenton, N.J. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b). The purpose of this republication is to show the correct authority proposed for transfer. Replies are due June 16, 1976.

No. MC-FC-76544, filed April 26, 1976. Transferee: WALLKILL AIR FREIGHT CORPORATION, RD. 3, Box 5, Wallkill,

N.Y. 12589. Transferor: CLARE SCHNEPP, Box 222, Wawarsing, N.Y. 12489. Applicants' representative: Ronald I. Shaps, 450 7th Avenue, New York, N.Y. 10001. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Ceritficate No. MC 70695 and Subs thereunder, issued September 20, 1945, July 26, 1946, December 6, 1949 and June 19, 1952, respectively, as follows: (1) evaporated milk, from specified points in New York, to points in New Jersey, Pennsylvania, Connecticut, Massachusetts, Rhode Island, and the New York, N.Y., Commercial Zone as defined, (2) pasteurized cream, from Boonville, N.Y., to Boston, Mass., (3) paper labels, from New York, N.Y., to Walton, N.Y., (4) milk sugar, from Walton, N.Y., to New York, N.Y., (5) household goods, between New York, N.Y., and Fleishmanns, N.Y., serving various intermediate points, (6) groceries, butter, eggs, and perishable merchandise, from New York, N.Y., to Fleischmanns, N.Y., and various intermediate and off route points, (7) wine, from New York, N.Y., to Newburgh, N.Y., (8) cauliflower, from Fleischmanns, N.Y., to Boston, Mass., (9) coal, from Forest City, Pa., to Fleischmanns, N.Y., (10) general commodities, between specified New York points, traversing New Jersey for operating convenience only, (11) wooden pallets, from Arkville, N.Y., to specified points in New Jersey, Connecticut, and New York. Transferee is presently authorized to operate as a common carrier under No. MC 136006TA.

No. MC–FC–76553, filed May 14, 1976. Transferee: PRINTERS-PUBLISHERS TRANSPORT, INC., 118 Hollywood Street, Goodlettsville, Tennessee 37072. Transferor: CAPE AIR FREIGHT, INC., P.O. Box 161, Shawnee Mission, Kansas 66202. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Kentucky 42101. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 134906 (Sub-No. 6), issued April 16, 1973 as follows: (1) Printed matter, and (2) paper in mixed loads with printed matter, between Shepherdsville, Kentucky, on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Lower Peninsula of Michigan, Minnesota, Missouri, Wisconsin, and Ohio. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76581, filed May 24, 1976. Transferee: CLAUDE HAYES, Cole Camp, Missouri 65235. Transferor: PETE J. OTTEN, doing business as OTTEN TRUCK LINE, Route 3, Eldon, Missouri 65026. Applicants' representative: Claude Hayes, Route 3, Eldon, Missouri 65026. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 70090, issued July 22, 1969, as follows: General commodities, with specified exceptions, between Cole Camp, Mo., and Sedalia, Mo., serving all intermediate points, over specified highways; and livestock, from Cole Camp, Mo., and points within 10 miles thereof, to Kansas City, Kans.; and feed, fertilizer, oil, and grease in containers, and livestock, from Kansas City, Kans., to Cole Camp, Mo., and points within 10 miles thereof. transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76582, filed May 21, 1976. Transferee: KOHL'S MAMARONECK MOVERS, INC., 125 Sunset Road, Mamaroneck, New York 10543. Transferor: CARRIER VAN LINES, INC., 239 East 169th Street, Bronx, New York 10456. Applicants' attorney: ARTHUR J. PIKEN, ESQ., PIKEN & ROBBINS, 1 Lefrak City Plaza, Flushing, New York 11368. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 86922 (Sub-No. 1), issued September 11, 1968, as follows: Household goods, between points in Westchester County, N.Y., on the one hand, and, on the other, points in New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, New Jersey, Pennsylvania, Delaware, Maryland, New Hampshire, and the District of Columbia. Transferee 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.76–15870 Filed 5–28–76;8:45 am]

[Notice No. 260]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JUNE 1, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 21, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–76322. By order of April 21, 1976 the Motor Carrier Board approved the transfer to Swing Transport, Inc., Lexington, North Carolina, of the operating rights set forth in Permits Nos. MC 115176 (Sub-No. 1), MC 115176 (Sub-No. 2), MC 115176 (Sub-No. 3), MC 115176 (Sub-No. 4), and MC 115176 (Sub-No. 5), issued by the Commission, August 25, 1961, May 24, 1968, March 27, 1969, October 24, 1972, and February 27, 1974, respectively, to Maybelle Transport Company and acquired by transferor herein pursuant to No. MC–F–12353, approved May 1, 1975, and consummated July 1, 1975, authorizing the transportation of paper and paper products, from two specified plantsites in North Carolina to points in Georgia, South Carolina, Virginia, and Tennessee, and ceramic products from Lexington, North Carolina, to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Jersey, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia and from a single origin in each of the States of New Jersey, Tennessee, Georgia, and Pennsylvania to Lexington, North Carolina. William P. Sullivan, Sullivan, Dubin & Kingsley, 1819 H Street, N.W., Washington, D.C. 20006; Harlan Dodson III, Hooker, Keeble, Dodson & Harris, P.O. Box 2524, Nashville, Tennessee, 37219, attorneys for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76–15871 Filed 5–28–76;8:45 am]

federal register

TUESDAY, JUNE 1, 1976



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

■

HUMAN DRUGS

Current Good Manufacturing Practice in Manufacture, Processing, Packing or Holding of Large Volume Parenterals, and Request for Comments Regarding Small Volume Parenterals

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 212]

[Docket No. 76N-0099]

HUMAN DRUGS

Current Good Manufacturing Practice in the Manufacture, Processing, Packing, or Holding of Large Volume Parenterals

The Food and Drug Administration (FDA) is proposing to establish current good manufacturing practice (CGMP) regulations for large volume parenteral (LVP) drug products for human use. As defined in these proposed regulations, LVP's include drug products such as intravenous solutions, irrigating solutions, peritoneal dialysates, and blood-collecting units containing an anticoagulant solution. They are packaged in single-dose containers with a capacity of 100 milliliters or more and are terminally sterilized. Interested persons have until September 29, 1976, to submit comments.

In the FEDERAL REGISTER of February 13, 1976 (41 FR 6878) the Commissioner of Food and Drugs proposed substantial revisions in the CGMP regulations for finished human and veterinary drug products. In that proposal, the Commissioner also announced his intention to propose at future times further CGMP requirements for specific types of drug products, either by class or for individual products. One of the classes of drug products anticipated in that proposal as needing specific CGMP regulations is that of large volume parenteral drug products. LVP's constitute a relatively specialized class of drugs based upon their unique characteristics in both use and production. The primary use of many such products is not based upon traditional drug therapy, but rather upon a paramount need of a patient for basic body constituents when the patient is unable to consume, produce, or maintain medically necessary amounts. Because LVP drug products are usually administered to seriously weakened persons and generally large volumes of such products must be prescribed, a drug quality level of the highest magnitude is required. Furthermore, because the drugs in this class are administered parenterally, the risks arising from nonsterility are heightened. Thus, the smallest problem relating to the quality, strength, purity, or sterility of an LVP drug product can jeopardize the life of a patient. On the production side, LVP's are currently manufactured in the United States by a very few firms, each of which prepares enormous amounts of drugs in this class. As discussed later in this preamble, recent problems within the LVP industry have suggested a need for priority action and, at the same time, they provide an opportunity for quickly raising all suppliers to the level of current good manufacturing practice. Therefore, FDA has developed specific criteria for the manufacture, processing, packing, or holding of LVP drug products to assure the highest possible standards for the finished product.

These criteria are already generally well known to the affected industry through various contacts between FDA and the industry during the development of this proposal. Some of these contacts resulted from several extensive recalls of marketed LVP drug products that failed to meet standards of quality or purity. Such recalls have involved individual lots of drug products and, in some instances, the entire LVP drug product production where significant manufacturing deficiencies in the plant were found by FDA during a plant inspection. As a result, the affected firms made changes in their manufacturing procedures and plant design after consulting with FDA. During such consultations, the criteria proposed herein were made known to the firms.

In addition, the Commissioner released an earlier draft of this proposal to the public on February 14, 1975 (40 FR 6811).

While these proposed provisions are not yet requirements, the Commissioner believes that current practices of LVP drug product manufacturers already comply with most of these provisions. Where there are differences, the Commissioner believes that manufacturers are developing the data necessary to effect changes to comply with the proposed requirements.

Because of the critical nature of both the production and use of LVP drug products and evidence that not all manufacturers could assure the level of microbiological quality required for LVP drug products, FDA, in late 1971, began an intensive review and evaluation of LVP production. This review was first limited to specific, individual manufacturing or container-closure problems. In 1973, the review expanded to a broad survey of the industry that included extensive sampling of LVP drug products, comprehensive drug establishment inspections by specially trained investigator-engineer-microbiologist teams, and detailed discussions between the industry and FDA. These discussions with LVP drug product manufacturers have provided the industry an opportunity to comment, both orally and in writing, on the technical aspects of LVP drug product production that FDA considered pertinent to good manufacturing practice. In addition, since certain LVP drug products are new drugs, the Commissioner has been able to consider information submitted under the provisions of section 505 of the Federal Food, Drug, and Cosmetic Act. Specifically, FDA has reviewed information in new drug applications (21 CFR Part 314)) regarding the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of LVP drug products. The information developed by FDA during this 4-year period, including industry discussions, is the basis for this proposal.

Copies of documents relating to the discussions with industry are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852. Such documentation includes the initial points for discussion and summary minutes of the meetings.

This proposal includes for the first time in CGMP drug regulations specific well-defined process standards. The Commissioner has already established comparable precise standards for certain biological products (21 CFR Subchapter F) and for low-acid foods in hermetically sealed containers (21 CFR Part 128b). It is important to realize that explicit detail is necessary to provide assurance that the methods and facilities used and the conditions of production are adequate in design and application to preclude microbiological and pyrogenic contamination of LVP drug products. The industry and FDA both recognize that sampling and testing of finished products alone cannot provide the necessary assurance of drug product quality. Without standardized procedures of demonstrated reliability of production and sterilization processes, assurance of quality could only be obtained through full testing of every unit. Testing to this extent is, of course, not practicable.

The Commissioner intends for CGMP regulations to become binding specific requirements that must be complied with; failure to do so shall render an LVP drug product adulterated under section 501 (a) (2) (B) of the act. Section 701(a) of the act empowers the Commissioner to promulgate substantive rules to facilitate enforcement of the act's other provisions. *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F. 2d 688 (2d Cir. 1975); *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); *CIBA Corp.* v. *Weinberger*, 412 U.S. 640 (1973); *Weinberger* v. *Bentex Pharm. Inc.*, 412 U.S. 645 (1973). Publication of proposed regulations establishing current good manufacturing practice in the manufacture, processing, packing or holding of large volume parenterals for human use will allow all members of the industry an opportunity to participate in their preparation and to note the level of performance expected of them. Binding regulations will also serve to inform courts of expert judgments of FDA regarding current good manufacturing practice for LVP drugs in the United States; this will expedite and assist enforcement proceedings to assure compliance with section 501(a) (2) (B) of the act. The legal status of the CGMP regulations is set forth in § 210.1, proposed in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878).

RELATION TO CURRENT GOOD MANUFACTURING PRACTICE REGULATIONS IN PARTS 210 AND 211

Section 212.1 provides a specific statement regarding the applicability and relationship of the more general CGMP regulations in Parts 210 and 211 to manufacturers of LVP drug products. Unless otherwise explicitly provided, the regulations in 21 CFR Part 210—Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs: General; and 21 CFR Part 211—Current Good Manufacturing Practice for Drug Products are applicable to all drug products, including LVP drug products. Therefore, it must be clearly understood that the regulations proposed

at this time will be in addition to, and supplement, the more general CGMP regulations of Parts 210 and 211 as proposed in the FEDERAL REGISTER of February 13, 1976. To determine the requirements for complying with current good manufacturing practice for LVP drug products, both the general CGMP regulations and the specific CGMP regulations for LVP drug products must be applied. Provisions in the general CGMP regulations are not repeated in the specific CGMP regulations for LVP drug products. However, a provision in Part 212 that supplements a corresponding requirement in Part 210 or 211 is keyed numerically to the regulations in Part 210 or 211. To trace a corresponding section, refer to the last portion of the section number. For example, definitions are in §§ 210.3, 211.3, and 212.3; requirements regarding responsibilities of the quality control unit are in §§ 211.22 and 212.22.

RELATION TO MANUFACTURING PRACTICES SUBJECT TO APPROVED NEW DRUG APPLICATIONS

A significant number of LVP's are subject to new drug applications (NDA's) that were approved under earlier and possibly less specific or less rigorous standards. The LVP current good manufacturing practice regulations are issued under section 501(a)(2)(B) of the act and are applicable to all LVP drug products, regardless of their "new drug" status. Failure to comply with the CGMP specifications renders the product adulterated and subject to regulatory action. New drug applications are covered by section 505 of the act. The "manufacturing controls" portion of an NDA contains the commitments of a manufacturer regarding the methods he will use in the manufacture, processing, packing, and holding of the product. Failure to abide by these commitments takes the product outside the marketing privilege conferred by the NDA and renders the product subject to regulatory action as a "new drug" not covered by an approved NDA. It is the position of FDA that an LVP drug product must be manufactured in accordance with the higher standard or more rigorous specification applicable to the product under the CGMP regulations and the NDA commitments. If, for example, the sterilization process standard proposed in these CGMP regulations is adopted and exceeds the sterilization process commitment undertaken in an approved NDA, the product will be deemed adulterated unless the CGMP standard is met, notwithstanding compliance with the NDA commitment. At the same time, if the same NDA sets forth requirements for the LVP product container and closure system that are more rigorous than those in the CGMP regulations for LVP's, the product will be deemed to be outside the NDA and subject to regulatory action if the NDA standards are not met, notwithstanding compliance with CGMP regulations.

This result is intended by the act, which subjects all drugs to the "current good" standards of manufacturing, even though they were approved for marketing on the basis of earlier, lesser standards. Indeed, FDA has long permitted persons holding an approved NDA for a drug to implement changes in the methods, facilities, and controls used in manufacturing without prior approval if the changes give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity that it purports to possess (21 CFR 314.8(d)(3)). NDA specifications higher than CGMP standards, on the other hand, are adopted by the manufacturer presumably because he and FDA believe them necessary or desirable to assure the quality of his product; changes in these specifications that will not provide increased assurances of product quality may not be implemented without prior authorization of FDA (21 CFR 314.8(c)).

These proposed regulations specify some of the facilities, types of equipment, processes, and controls that must be used to obtain a desired result for the LVP drug product. It is not the intent of FDA, however, to curtail technological advance in the form of new facilities, types of equipment, processes, or controls where such advance accomplishes at least the results attainable by strict compliance with these regulations. Nor is it the intent to require compliance when to do so would lead to the alteration, degradation, or instability of the end product. The Commissioner realizes that in rare cases it may not be possible for an LVP drug product to be made in compliance with the proposed CGMP regulations, particularly the sterilization process in § 212.240, because of unique characteristics in the drug product that would be impaired, altered, or destroyed if full compliance were attained. The Commissioner has not attempted, however, to determine which specific drug products, if any, cannot be processed in compliance with the proposed regulations. It is the responsibility of every manufacturer of an LVP drug product to determine whether compliance is feasible, and, if not, to have data to support any exceptions from the proposed minimal sterilization process. For those drug products that must be processed under lesser standards than those proposed in these CGMP regulations and that are the subject of a new drug application approved on the basis of those lesser standards, a supplement to the NDA is required establishing the need for lesser standards. If the supplement is approved, the drug product is exempted from the CGMP regulations for that process or other requirement. For LVP drug products manufactured under different standards that are equal to or exceed these proposed CGMP regulations and are subjects of existing approved NDA's, the NDA requirements continue as a commitment. For drug products not able to meet the minimal sterilization process and not subject to section 505 of the act, the Commissioner advises that at this time the data to support any such exceptions shall be maintained by the manufacturer and will be reviewed and evaluated during factory inspections conducted under section 704 of the act. The proposed § 212.5 sets forth the foregoing policy.

In order to determine whether exceptions to this policy are anticipated, the Commissioner requests specific information regarding those LVP drug products that cannot withstand the proposed sterilization process. Therefore, each manufacturer should, during the time period provided for comments on these proposed regulations, identify any of his LVP drug products, whether or not now covered by an approved NDA, that cannot be manufactured in compliance with the proposed minimal sterilization process. The Commissioner will evaluate the need for particular deviations during the preparation of the final regulations on this proposal.

GENERAL PROVISIONS (SUBPART A)

1. In proposed § 212.3(b)(1) the term "large volume parenteral" is defined as a terminally sterilized aqueous drug product packaged in a single-dose container with a capacity of 100 milliliters or more and intended to be administered or used in humans. This includes intravenous infusions, irrigating solutions, peritoneal dialysates and blood collecting units with anticoagulant. While large volume parenteral drug products are considered by some to be only for intravenous use, there is no universally accepted definition that limits such drug products to intravenous use. For the purposes of this part, the meaning of LVP drug product is broadened to include several kinds of sterile fluids that are used under circumstances where failure to meet standards of microbiological quality place the patient at risk.

These proposed regulations apply only to LVP drugs for human use. This differs from the general CGMP regulations in Parts 210 and 211, which apply to both human and veterinary drugs. Almost all contacts and discussions with the industry during development of this proposal involved drugs for human use. Thus, the proposed regulations are based on information specific to LVP drug products for humans. In addition, the Commissioner notes that a significant portion of LVP drug products intended solely for veterinary use are sterilized by means other than those covered in this proposal, and that certain other requirements for such veterinary products differ significantly from those for human-use products, e.g., veterinary LVP drugs need not be pyrogen-free. For these reasons, CGMP regulations for veterinary LVP drug products are not included in this proposal and will be considered at a later time.

Biological drug products are not included in the term "large volume parenteral" because they are not terminally sterilized, and many of the proposed requirements would not be appropriate for the manufacture of such products. Biological drug products are regulated under section 351 of the Public Health Service Act (42 U.S.C. 262) and are subject to the general CGMP regulations in Parts 210 and 211 as well as the stand-

ards set forth in Parts 600 through 680 (21 CFR Parts 600 through 680).

2. Proposed § 212.3(b)(2) defines the term "controlled environment area." The weighing, mixing, filling, transfer, and gowning areas must be environmentally controlled in accordance with the standards of air quality and the requirements for lighting and construction that are specified in this part to minimize contamination from air-borne particulates, including microorganisms.

3. In proposed § 212.3(b)(3), (5), (6), and (12) the terms "F_o," "heat distribution study," "heat penetration study," and "sterilization process," are defined for use in testing procedures to determine the adequacy of the sterilization process.

4. In proposed § 212.3(b)(4) and (7) the terms "HEPA filter" and "laminar flow" are defined. Elsewhere in the regulations, in §§ 212.77 and 212.222 are requirements for high efficiency particulate air (HEPA)-filtered, laminar-flow air equipment to be used at the filling line and microbiological testing area. Air of this high quality in these critical areas of drug product exposure is already widely used throughout the industry.

ORGANIZATION AND PERSONNEL (SUBPART B)

1. Proposed § 212.22 establishes specific responsibilities for the quality control unit. The proposed regulations require that before a plant, process, procedure, or container-closure system is used in LVP drug product production, it must be tested and accepted or rejected by the quality control unit. The quality control unit has the responsibility and authority to accept or reject the design, engineering, and physical facilities of the plant, the equipment, the manufacturing processes and procedures, and the container-closure system. In addition, modifications in production systems must first be approved by the quality control unit before implementation.

2. Proposed § 212.29 establishes requirements to be followed by personnel when entering or leaving a controlled environment area. Appropriate nonlinting garments are required to be worn while in the controlled environment area and are prohibited from being worn outside of the controlled environment area, including the changing area. The basic provisions of this proposed section are already extensively practiced by the LVP drug product industry.

BUILDINGS AND FACILITIES (SUBPART C)

1. Proposed § 212.42 sets forth general design and construction features for LVP drug manufacturing facilities as well as specific construction features for controlled environment areas within these facilities. To preclude the physical features from becoming a source of contamination by particulates, the Commissioner believes the walls, floors, ceilings, fixtures, and partitions in controlled environment areas must have surfaces that resist flaking and other deterioration and are suitable for cleaning. To preclude possible contamination, this section prohibits fixed pipes or conduits over exposed components, in-process materials, drug products, and drug product contact surfaces, including drug product containers and closures after final rinse. All pipes or conduits for air or liquid in each physically separated area are required to be identified by name, color code, or other suitable means as to their content. Manufacturers have long recognized the importance of using materials that are easily cleaned and that will not flake or deteriorate. For the most part, plant, equipment, and facilities already have been designed and constructed to meet the proposed requirements. Therefore, the Commissioner believes that the majority of firms already conform to this proposed section.

2. Proposed § 212.44 requires lighting fixtures in controlled environment areas to be constructed and installed in a manner to prevent any accumulation of dust and to facilitate cleaning. Such fixtures must also be enclosed to prevent scattering of any material in case of breakage. The Commissioner believes that building construction in most plants currently incorporates the features proposed here.

3. Proposed § 212.45 establishes specific requirements for locating and equipping gowning areas. This requirement is designed to assure that robing accommodations will minimize the likelihood of particulate contamination of the special garments to be worn in controlled environment areas.

4. Proposed § 212.47 requires that the facilities used for LVP production include a compressed-air processing and distribution system. The air produced by such a system shall meet certain requirements, which are set forth in § 212.223 and discussed at length in this preamble under Subpart L.

5. In proposed § 212.49 specific requirements are added for systems handling water and other liquids to ensure the quality of the material handled. Pipelines for the transmission of water for injection and other liquid components are required to be of welded stainless steel equipped for sterilization with steam, except that sanitary stainless steel lines with fittings capable of disassembly may be immediately adjacent to the equipment or valves that must be removed from the lines for servicing. Pipelines capable of disassembly for manual cleaning may be used for liquid in-process materials.

This section would also prohibit filters at any point in the piping system carrying water for manufacturing or final rinse to prevent microbial or pyrogen contamination attributed to improperly maintained in-line filters.

In the FEDERAL REGISTER of March 14, 1975 (40 FR 11865), the Commission published final regulations regarding fibers, particularly asbestos-form particles, in drugs for parenteral injection. These requirements are now in the CGMP regulations in §§ 211.40(j) and 211.55 (21 CFR 211.40(j) and 211.55) (and in §§ 211.72 and 211.94(c) in the proposed revisions of the CGMP regulations published in the FEDERAL REGISTER of February 13, 1976). In part, the existing CGMP regulations require that containers for parenteral drugs be cleansed with water that has been filtered through a nonfiber-releasing filter of maximum pore size of 0.22 micron (or 0.45 micron if the manufacturing conditions so dictate).

The requirements for parenteral drug products regarding filtration to remove fibers apply to all parenteral drug products including LVP drug products. Because of the high quality standards for final rinse water that are being proposed for LVP drug products, the Commissioner is seeking sufficient information to determine whether filtration of the final rinse water should continue to be required. Therefore, he finds it appropriate to request information and comments regarding the need to filter the final rinse water to remove fibers and the placement of filters if such filtration is desirable.

6. In proposed § 212.49(c) the length of unused piping in systems handling water for manufacturing and final rinse and other liquid components is restricted to prevent the accumulation of stagnant fluid and possible subsequent bacterial buildup that could contaminate the fluid system. The proposed limits on the pipe length will allow sufficient turbulence and interchange of fluid when there is flow in the principal line. This phenomenon of turbulence and fluid interchange is an engineering principle that is well recognized. The proposal for LVP pipelines is based on similar kinds of requirements; for example, sanitary standards for bulk transport of milk set forth in "3-A Sanitary Standards For Stainless Steel Automotive Milk and Milk Products Transportation Tanks For Bulk Delivery and/or Farm Pick-Up Service," *Journal of Milk and Food Technology*, Vol. 34 No. 11, November 1971 (on file in the office of the Hearing Clerk, Food and Drug Administration).

7. Proposed § 212.51 draws attention to potential problems of microbiological contamination resulting from improperly designed drainage systems. Plumbing must be designed to prevent backflow of production or sanitary wastes from occurring.

EQUIPMENT (SUBPART D)

1. Proposed § 212.63 requires that equipment such as guide rails, diverters, and transfer mechanisms that contact glass bottles shall be designed to prevent damage to the bottles. Rough handling of bottles can result in small cracks or chips that might allow the drug product to become contaminated. This problem is already well recognized by manufacturers, and equipment today is generally designed to protect against this kind of damage.

2. Proposed § 212.65 requires that equipment be constructed so that its surfaces shall not affect the safety, identity, strength, quality, or purity of the LVP drug product.

3. Proposed § 212.67 discusses the requirements for equipment cleaning and maintenance that must be followed and included in a written procedure and

cleaning schedule. One of the requirements is the provision that all equipment and surfaces that contact components, in-process materials, drug products, or drug product contact surfaces be rinsed with water meeting the quality standards for water used as a component of the LVP drug product immediately prior to such contact.

4. Proposed § 212.68 discusses the equipment used in the manufacture, processing, packing, and holding of large volume parenterals that is sophisticated and must function with great precision. This equipment must be periodically checked, calibrated, examined, or tested for proper functioning and accuracy. Therefore, the Commissioner proposes that all such equipment be examined according to written schedules and procedures and that the results of such work be recorded.

5. In proposed § 212.72, there is a requirement that the integrity of air and solution filters be established before they are used. In addition, the integrity of filters used for filtering LVP drug products are required to be verified before and after the filtering operation. If a solution filter used for any lot of an LVP drug product fails the test, all materials filtered through it shall be rejected. However, the Commissioner believes that refiltration can be permitted as long as the entire process does not exceed the 8-hour process time specified in § 212.111 and so proposes. Solution filters are required to be sterile at the time of installation.

6. Proposed §§ 212.73, 212.74, and 212.75 set forth specific requirements for the equipment used in sterilization of LVP drug products. Large volume parenteral products can only have the quality characteristics that are commensurate with the quality of the components and equipment used. The sterilization procedure is a critical step in the production of sterile and pyrogen-free LVP drug products. The quality of these products can be assured only by employing sterilization equipment and procedures that are capable of accurately reproducing the microbial lethality desired.

These proposed sections establish requirements for sterilization equipment that recognize the three most widely used methods of heat sterilization: steam or air-steam mixtures (§ 212.73), superheated water (§ 212.74), and steam with hydrostatic pressure (§ 212.75). The equipment requirements for each method are described in detail to assure uniformity of temperatures and pressure during sterilization.

Although this subpart discusses the requirements for three different heat sterilization procedures, alternative procedures may be used as provided for in § 212.5. Irrespective of the sterilization procedure, it may not be used for LVP drug products until it has been tested and approved by the quality control unit.

7. Proposed § 212.76 establishes criteria for heat exchangers. The pressure differential of heat exchangers must be monitored and monitoring records must be maintained. Again, the purpose of this requirement is to contribute to the assurance of microbial quality.

8. Proposed § 212.77 requires that HEPA-filtered, laminar-flow air be used over the filling line and in the area where microbiological testing is performed because air may be a significant source of contamination. Air in both areas must be of the highest quality. In the filling area, the containers are open and thus vulnerable to contamination. To rely on the test results with a high degree of confidence, it is also essential that the microbiological testing have high quality air. This section also requires that the laminar-flow equipment be monitored according to a written program and records be maintained of the test and any resultant corrective actions. Generally, the LVP drug product industry already meets these standards.

9. Proposed § 212.78 requires that air vents of all stills and tanks that hold water for manufacturing or final rinsing, water for cooling the drug product after sterilization, liquid components, and in-process solutions be equipped with non-fiber-releasing sterilizable filters capable of preventnig microbial contamination of the contents. Such filters shall be sterilized and installed aseptically.

10. Proposed § 212.79 requires that pumps moving water for manufacturing or final rinsing, water for cooling the drug after sterilization, and in-process or drug product solutions be designed to utilize water for injection as a lubricant for the seals.

Control of Components, Drug Product Containers, Closures, and In-Process Materials (Subpart E)

1. Proposed § 212.84 prescribes requirements applicable to the testing and approval or rejection of components, containers, and closures. All components must periodically be subjected to microbiological examinations and be free of heat-resistant spores or other microbiological contaminants that may affect the quality of an LVP drug product.

In addition, because of the nature of LVP drug products, the Commissioner concludes that special protection must be provided to assure a pyrogen-free product. Therefore, in addition to requiring the pyrogen test on the final drug product, the Commissioner is proposing to require that each shipment of each lot of components, drug product containers, and closures be tested for pyrogenic properties prior to release by the quality control unit. Lots of materials that produce a pyrogenic reaction shall be rejected, but may be reprocessed. This is in accord with current good manufacturing practice in the LVP industry.

2. Proposed § 212.94 supplements § 212.84 with respect to chemical and physical characteristics of the container-closure system. Because of the critical nature of the container-closure system, which must protect the sterility of the drug after that state has been achieved, it is essential that containers and closures be of optimal quality. Since containers and closures employed in the manufacture of LVP drug products are unique to this industry, the Commissioner concludes that special procedures utilized in some LVP manufacturing today should be required for the control of all LVP drug product quality. This proposed section sets forth such requirements.

Before any container-closure system may be used for LVP drug products, it must first be tested and approved by the quality control unit. As with other systems that have been so evaluated and accepted, changes may not be made until the proposed changes are reviewed and approved by the quality control unit.

In view of the importance of the container-closure system, the Commissioner proposes to require that each shipment of each lot of containers and closures be sampled and tested for physical characteristics according to a statistically valid sampling plan. Thus, even if containers from the same manufactured lot are received at two different times, this section requires each shipment to be sampled and tested for physical characteristics. If the supplier of the containers or closures is changed, 100 percent inspection for physical defects shall be performed until the reliability of the new supplier has been established.

Production and Process Controls (Subpart F)

Many of the requirements proposed in this subpart are matters that are specific to parenteral production but have their conceptual roots in the general requirements for finished pharmaceuticals in Part 211. For example, the requirement that procedures be written and documented is found throughout Part 211; however, the requirement for a procedure for flushing static lines is specific to parenterals and therefore appears in this proposal.

The more significant proposed requirements that are specific for LVP drug products are as follows:

1. Proposed § 212.100(a) requires that the processes and procedures used in the production of the drug product be tested and determined adequate by the quality control unit.

2. In proposed § 212.100(b) written procedures are required for flushing all static lines to prevent any growths of microorganisms from being added to the production system. In addition, procedures must be established to specify the action to be taken with regard to the material in the sterilizer when the automatic system fails or the alarm signals a malfunction.

3. In proposed § 212.104 requirements regarding calculation of yield have been expanded over the more general CGMP regulations to take into account procedures peculiar to LVP drug production such as drug product loss due to line flushing.

4. Proposed § 212.111 establishes maximum production time limits. To prevent excessive growth of microorganisms prior to sterilization, and to protect against generation of pyrogens, the Commissioner proposes that specific time limitations be placed on certain production

phases. Although the industry survey revealed no specific industry practice in this area, all firms felt that time had to be limited. It is, therefore, proposed that an 8-hour limit be established as the maximum permissible time between addition of water for manufacturing (frequently termed "product make-up water") to the mix tank and the exposure of the last container to the sterilization process.

5. In proposed § 212.116 there is a requirement that prior to filling, LVP drug products must be filtered through a filter system having a final mean porosity of 0.45 micron. However, the Commissioner recognizes that this limitation may not be practicable for viscous drug products and proposes to permit a larger porosity filter to be used to achieve a flow rate consistent with the maximum production time limitation. The length of time a filtration system can be used without cleaning or filter replacement is limited to 8 hours.

6. Proposed § 212.117 requires that after the sterilization process and before release for marketing, all LVP drug products be visually examined for particulate matter. Alternate methods of examination may be used provided such methods are as effective as a visual examination. Any drug product found to contain particulate matter must be rejected.

7. Proposed § 212.118 permits reuse of sterilized glass containers during production operations. Such containers usually come from lots that have been sterilized but do not meet some specification that does not affect the integrity of the container itself.

This section proposes careful evaluation of such containers, including data concerning the effects of repeated sterilization on the container.

PACKAGING AND LABELING CONTROL (SUBPART G)

Proposed § 212.130 is intended to recognize the importance of suitable packaging for shipping sterile, large volume drug products covered by these regulations.

HOLDING AND DISTRIBUTION (SUBPART H)

1. Proposed § 212.142 requires that written procedures describing the storage of LVP drug products include specific directions regarding the stacking of cases. Limitations of stacking height, for example, will eliminate undue stress on the container-closure system.

2. Proposed § 212.150 requires manufacturers to establish and follow proper shipping procedures and to discontinue the services of transportation companies that are found to routinely mishandle LVP drug products in a way that could jeopardize the integrity of the products. While this may be a relatively new concept to some manufacturers, the Commissioner is aware that a number of drug manufacturers routinely monitor the conditions under which their products are shipped.

LABORATORY CONTROLS (SUBPART I)

In proposed § 212.167, laboratory controls, which supplement the broader requirements in the general CGMP regulations, relate specifically to testing for pyrogens, particulate matter, and sterility.

First, pyrogen testing is proposed to be performed at certain specific times in the manufacture of LVP drug products. This would be at the times of the filling of the first and last containers in a batch and when containers are filled after resumption of operations following any significant stoppage of production. The Commissioner believes that samples drawn at these points will reflect "worst" conditions, and if these are found satisfactory, the material produced in the interim can be expected to be of suitable quality. The pyrogen test method proposed is the United States Pharmacopeia (U.S.P.) method; however, any method that is equivalent to the U.S.P. method may be used. The pooling of material for testing is not permitted except where there is insufficient material to test. Such cases should be the extreme exception.

The U.S.P. in the first supplement to its 19th revision has included a method for determining the degree of contamination with, and limit for, particulate matter for large volume single-dose intravenous infusions, one type of LVP drug product. The method and standards in the U.S.P. for particulate matter are proposed; however, alternative methodology may be used if equivalent to the U.S.P. method.

The third test proposed is for sterility of the lot. Again, the U.S.P. testing procedures (membrane filtration) or equivalent is proposed.

RECORDS AND REPORTS (SUBPART J)

Generally, this proposed subpart summarizes the records and reports required to be maintained and, for convenience, cites cross-references to pertinent sections elsewhere in the proposed regulations.

AIR AND WATER QUALITY (SUBPART L)

1. Proposed § 212.220 establishes general requirements for air and water quality. In considering the need for requirements relating to the manufacturing and processing of LVP's, the Commissioner recognizes the importance of high quality air and water.

No article is used more extensively in the manufacture of LVP drug products than is water. Since the problems associated with LVP's in the past have been microbiologically oriented, it is mandatory that microbiological quality limits be established for water, which, when exceeded, require the initiation of corrective action.

Before the intensified efforts of the last several years, industry had not considered the air in LVP plants as a source of microbial contamination except in the area directly over the filling line. Since microbial control is essential throughout the plant, it is only prudent that attention be given to environmental air in production areas and that quality limits be proposed for air in critical areas.

This section therefore proposes general requirements for air and water quality and requires written procedures to specify appropriate corrective action when established specifications are not met.

2. Proposed §§ 212.221, 212.222, and 212.223 identify air quality requirements for a number of specific plant areas where there is a potential for LVP drug product contamination. The Commissioner notes that other Federal Government organizations have had considerable experience with "contamination control" in areas not related to drug manufacture. Examples are found in the Contamination Control of Aerospace Facilities, U.S. Air Force Technical Order (T.O.) 00-25-203, Warner Robins ALC/MMSTD, Warner Robins AFB, GA-31098 and Clean Room and Work Station Requirements, Controlled Environment (Fed. Std. No. 209B), General Services Administration Specifications Activity, Printed Materials Supply Division, Bldg. 197, Naval Weapons Plant, Washington, DC 20407 (on file in the office of the Hearing Clerk, Food and Drug Administration). In considering these Federal requirements for nondrug facilities and the current practices of the LVP drug industry, the Commissioner concludes that many of these requirements for nondrug facilities are clearly applicable to drug production facilities. Therefore, as a starting point for this proposal, the air quality for critical areas of possible drug product exposure is defined in these proposed sections. The principle is that air coming into contact with a vulnerable product or process must be of a quality that will not unduly jeopardize the product by contributing significant undetected contamination. Monitoring of air quality on a regular, routine basis is essential to maintaining appropriate air quality. Air over filling lines has generally been HEPA filtered; however, it has not been monitored by industry to demonstrate that it meets the requirements of a class standard. It is therefore proposed that such air be HEPA filtered and that it be monitored for particulates during production so that standards can be set, deviation from the norm can be detected, and remedial action taken when necessary. The Commissioner believes that the proposed air quality requirements are broad enough to provide reasonable latitude for all firms to comply and yet be a meaningful quality assurance standard. As additional experience is gained with regard to the relationship of air quality to drug quality, the Commissioner will consider revisions in these proposed CGMP regulations.

Attention must also be given to compressed air. It is proposed that compressed air be filtered to meet the air quality requirements at the point of use.

The industry has suggested that filtration will produce air of the particulate quality desired and will not necessitate the expensive replacement of compressors and distribution lines. Compressed air is presently being dehumidified by the industry to prevent condensation and thus possible microbial contamination in the distribution lines. The Commissioner also proposes that compressed air be supplied by an oil-free compressor and be free of oil and oil vapor unless such compressed air is vented to a noncontrolled-environment area. The Commissioner believes that compressed air must be supplied free of oil and oil vapor because he is not aware of filters that can remove oil vapor. However, the Commissioner recognizes that some compressed-air-operated equipment cannot be operated without a lubricant. Therefore, the proposed regulations would allow for the use of compressed air containing oil and oil vapor when such air is vented directly to a noncontrolled environment area.

3. Proposed § 212.224 establishes quality standards for water that is used for cleansing or initially rinsing drug product containers and closures, and drug product contact surfaces or equipment. Such wash and rinse water need not have the same requirements as final rinse water because of the further rinsing effect imparted by the subsequent use of the higher quality final rinse water. The proposed microbial limit for water for cleansing and initial rinsing is 50 microorganisms per 100 milliliters in three consecutive samples.

The 1973 industry survey revealed that setting specifications and monitoring this water for conformity to specifications was not a general industry practice. Testing such water at that time showed that some plants had significant contamination. Although monitoring and controlling this water is today an industry practice, the microbial limit established may vary among individual firms. As with other specifications in these proposed regulations, the Commissioner invites comments on reasonable limits for microbial content of this water that will demonstrate control of the system producing the water and that will result in assurance of quality of the LVP drug product.

4. Proposed § 212.225 contains specific standards for water used as a component of an LVP drug product or as a final rinse for equipment or drug product contact surfaces. Water for injection, as defined in the U.S.P., is the ingredient of greatest volume used to prepare LVP drug products and is the basis for the proposed requirements for water used as a component of such parenterals. Because the Commissioner recognizes the need to build quality into the product by means of knowing the quality of component parts associated with its manufacture, he is also proposing certain microbiological quality levels as specifications for water used for certain critical purposes. Microbial limits, proposed in this section and in §§ 212.224 and 212.226, are new to CGMP regulations. However, some manufacturers already meet these limits, and virtually all manufacturers have established microbial limits for water used in the manufacture and cooling of LVP drug products and the cleaning and rinsing of drug product contact surfaces. Therefore, the Commissioner has concluded that a reasonable, finite level of microbiological population in water should be established to determine when water quality is unacceptable and the production process can no longer assure a safe and sterile end product. The Commissioner welcomes comments on these proposed microbial limits and invites the submission of alternative specific limits, together with information supporting them or challenging the limits proposed in this notice.

The microbiological quality limit proposed for water for manufacturing or final rinsing is not more than 10 microorganisms per 100 milliliters in three consecutive samples of 250 milliliters or more taken from the same site. This microbial level was selected because data from LVP manufacturers reviewed during the 1973 survey indicated that this limit is reasonable and can be consistently met. Allowance for three consecutive samples from the same site to exceed the limit before action must be taken will permit sampling and testing errors to be identified as such. Thus, the results of one test will not condemn the system. When produced with such a quality, it is expected that such water will be stored and handled in a manner that will maintain that level of quality. Thus, it is proposed that the water be stored in a system at temperatures of at least 80° C under continuous circulation, or, if stored at ambient temperatures or lower, that the water be dumped to drain at least every 24 hours. The Commissioner believes that almost all manufacturers have adopted similar requirements for adequate handling and storage of this high quality water.

5. Proposed § 212.226 contains microbial standards for water for drug product cooling. This section proposes that water used for cooling the product after sterilization be treated by an appropriate method (i.e., chlorination or sterilization) to reduce the microbial population to one viable organism per 100 milliliters in three consecutive samples of 1 liter or more from the same site. The Commissioner finds that drug product cooling water must be of extremely high quality to eliminate the possibility of introducing microorganisms from contaminated cooling water into the LVP drug product after the sterilization process is complete. While the 1973 survey revealed that it was not universal industry practice to test such cooling water for microbial contamination, recent information indicates that most manufacturers recognize the importance of using a high quality cooling water and have established microbial standards for such water.

6. Proposed § 212.227 prohibits the use of volatile additives in boilers that supply steam that contacts drug product contact surfaces. Because steam is used extensively throughout the production of LVP drug products, it is necessary to be assured that such steam does not contaminate the drug product.

7. Proposed §§ 212.231, 212.232, and 212.233 require monitoring of air and water quality. To control the microbial flora of the environment, there must be some knowledge of what is present. The 1973 survey showed that industry had very little information in this area. Since that time, firms have established programs and have generated data to identify the normal microbial experience in each plant. Section 212.231 requires that the microbial flora of the plant be monitored according to a sampling and testing program designed to determine whether the plant and equipment, manufacturing processes, and control procedures continue to be effective for LVP drug production. One of the main purposes of such a program is to obtain data as to the probable contribution to the total load of contamination made by each integral part of the process. Specifically in §§ 212.232 and 212.233, the air and water quality must be monitored to provide assurance that the quality standards proposed elsewhere in the regulations are being met.

Sterilization (Subpart M)

The sterilization process, with its capability to destroy microorganisms, is probably the single most important process in all of LVP drug product manufacture. Therefore, an entire subpart is devoted to the details of how appropriate assurance of sterility is obtained. It enumerates the many factors to be considered in the design of the process and those required for proving that the process is uniform and consistently reproducible.

For the first time in drug CGMP regulations, FDA is establishing a process standard. This standard for the sterilization process is a lethality factor (termed F_o) of 8. For information regarding the calculation of F_o the following references, on file in the office of the Hearing Clerk, Food and Drug Administration, may be useful:

References

(1) National Canners Association, "Laboratory Manual for Food Canners and Processors," Vol. 1, Avi Publishing Co., Westport, CN, pp. 220–251, 1968.

(2) Stumbo, C. R., "Thermobacteriology in Food Processing," Academic Press, 1973.

(3) "Industrial Sterilization," Edited by Philips, G. B. and W. S. Miller, Duke University Press, Durham, NC, pp. 239–282, 1973.

(4) Pflug, I. J., "Heat Sterilization," in "Industrial Sterilization," Edited by Phillips, G. B. and W. S. Miller, Duke University Press, Durham, NC, 1973.

The survey of 1973 showed that the industry traditionally applied to its products during the sterilization process a degree of heat treatment that was minimal by today's standards and knowledge. While the extent of heating used at the time of the survey was satisfactory for

low concentrations of heat-sensitive microorganisms, the sterilization cycles employed did not provide suitable margins of safety, and there was no way to assure that some very small levels of contamination did not survive the sterilization process. Such risks are considered unnecessary in light of current sterilization technology.

Classical sterilization techniques using pure steam under pressure provided a lethality factor of 12 to 15, which has long been used as a recommended standard. However, such an amount of lethality in the form of heat may also be detrimental to the chemistry and stability of these products. After considering the process of sterilization as it applies to the production of safe and effective LVP drug products, the Commissioner believes that a manufacturing process for terminal sterilization of an LVP drug product may employ steam, mixtures of air and steam, or superheated water as the sterilizing medium, provided the procedure has been shown to deliver an F_o of 8 or more. As discussed earlier, provisions are proposed in § 212.5 for alternative facilities, equipment, processes, or control procedures and specifially in § 212.5(d) for a sterilization process delivering an F_o of less than 8.

When sterilization under conditions producing an F_o of 8 or more is coupled with all of the other control features proposed in this regulation, a generous margin of safety is provided even when fluctuations in microbial flora are encountered. The proposed F_o value of 8 has been known to be under consideration since the draft proposal was publicly released in April 1975. FDA has evidence that industry has been moving toward the establishment of more stringent sterilization processes in view of the expectation that this lethality factor would become a requirement. Some plants already employ such processes; and, therefore, the use of an F_o factor of 8 can already be considered a current good manufacturing practice.

2. Proposed § 212.243 requires that the sterilization process be tested and approved by the quality control unit. The testing of the sterlization process must include heat distribution studies and heat penetration studies.

The Commissioner believes these studies are necessary to demonstrate that the process is uniform and reproducible within certain limits. Such studies must be repeated when any changes that may affect the heat delivered to the product are made in the equipment or in the sterilization process. Heat distribution studies are necessary to document that the sterilizing medium is uniform. Heat peneration studies are performed to document that the product being sterilized is subjected to the required process standard regardless of its location in the sterilizing chamber. Sufficient studies must be performed to establish that the prescribed F_o is delivered consistently throughout the sterilizer. It is important that every manufacturer use data derived from the same processing parameters. Therefore, the Commissioner proposes that the data employed to calculate the F_o value be derived beginning when the sterilizer environment has stabilized and ending when cooling is initiated.

The Commissioner further proposes that heat penetration studies use temperature sensors, i.e., thermocouples, and suitable biological indicators as added assurance that the sterilization process is capable of microbial destruction. The indicators shall be placed in the same containers where temperature sensors are used. The Commissioner believes that biological indicators are used to some extent by all manufacturers of LVP drug products. Furthermore, the Commissioner is aware that some manufacturers use biological indicators throughout production and process development and as added assurance of sterilization in every sterilizer load. Other manufacturers, however, appear to strongly oppose such widespread use of biological indicators. The Commissioner has concluded that more information is needed before he can determine the "current good" practice of the industry and whether biological indicators in every sterilizer load are necessary to assure satisfactory sterilization. Therefore, the Commissioner requests specific comments regarding the use of biological indicators in each sterilizer load as an additional means of verifying the sterilization process. These comments, along with other information currently being developed by FDA should materially assist the Commissioner in determining the role of biological indicators in the manufacture of LVP drug products.

3. Proposed § 212.244 sets forth a number of pertinent factors that must be included in the design of a sterilization process. One of the most important of these is uniform heat distribution. If one container of an LVP drug product is to be of the same quality as any other container in the lot, then all must have been exposed to virtually the same process and have the same sterilization history. It is, therefore, proposed that the temperature of the sterilizing medium vary no more than ± 0.5 C or $\pm 1°$ F from the specified temperature once the product achieves process temperature.

Other factors such as the loading pattern of the sterilizer, the initial temperature of the product and sterilizer, venting time, product come-up time, and cooling time are discussed in this proposed section.

4. Proposed § 212.245 establishes certain controls that need to be employed during the sterilization process. Such controls include placement and periodic checking of equipment used to measure and record the temperature, times, and pressures, ensuring that bleeders on sterilizers are functioning, or assuring that water levels, where required, are maintained. Of importance in this proposed section is a determination of the microbial population and the relative heat resistance of the organism prior to sterilization. Such determination is based on samples collected at the beginning and at the end of the filling operation. There should be no evidence of significant microbial growth having occurred during the time of the filling operation nor should the microbial level or microbial heat resistance exceed those levels established during the testing and approval of the manufacturing process and control procedure. Again, this is in accordance with current good manufacturing practice.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation as required by EO 11821, OMB Circular A–107, and interim guidelines issued April 1, 1975 by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 355, 356, 357, 371)) and under the authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes that a new 21 CFR Part 212 be established as follows:

PART 212—CURRENT GOOD MANUFACTURING PRACTICE IN THE MANUFACTURE, PROCESSING, PACKING, OR HOLDING OF LARGE VOLUME PARENTERALS FOR HUMAN USE

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212.243 Testing of sterilization processes.
212.244 Sterilization process design.
212.245 Sterilization process controls.

AUTHORITY: Secs. 501, 502, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 355, 356, 357, 371).

Subpart A—General Provisions

§ 212.1 Scope of Part 212.

(a) The regulations set forth in Parts 210, 211, and 212 of this chapter describe the minimum current good manufacturing practice for methods to be used in, and the facilities and controls to be used for, the manufacture, processing, packing, or holding of a large volume parenteral drug product for human use, to assure that such drug product meets the requirements of the act as to safety, and has the identity, strength, quality, and purity it purports or is represented to possess.

(b) The regulations in this part supplement the regulations in Parts 210 and 211 of this chapter except where explicitly stated otherwise. Therefore, to determine the requirements of current good manufacturing practice for large volume parenteral drug products, the regulations in Parts 210, 211, and 212 of this chapter must be applied together. In the event it is impossible to comply with applicable regulations both in this part and in Part 211 of this chapter, the regulations in this part shall supersede the regulations in Part 211. Where requirements in this part supplement corresponding requirements in Part 211 of this chapter, the same section heading is used and is keyed numerically to the regulation in Part 211. To trace a corresponding section, refer to the last portion of the section number. For example, definitions are found in §§ 210.3, 211.3, and 212.3 of this chapter; requirements regarding responsibilities of the quality control unit are in §§ 211.22 and 212.22 of this chapter.

§ 212.3 Definitions.

(a) The terms defined in § 210.3 of this chapter have the same meaning in this part.

(b) As used in this part:

(1) "Large volume parenteral" means a terminally sterilized aqueous drug product packaged in a single-dose container with a capacity of 100 milliliters or more and intended to be administered or used in man. It includes intravenous infusions, irrigating solutions, peritoneal dialysates, and blood collecting units with anticoagulant. The term "large volume parenteral" does not include any biological drug product subject to section 351 of the Public Health Service Act (42 U.S.C. 262).

(2) "Controlled environment area" means any area in which the manufacture, processing, packing, or holding of a larger volume parenteral drug product occurs and in which environmental factors such as humidity, temperature, particulate and microbial quality of the air must be controlled to assure that the drug product has the purity characteristics that it purports or is represented to possess. Under §§ 212.29(c) and 212.81, areas in which the weighing, mixing, or filling of large volume parenteral drug products occurs, transfer areas (defined in paragraph (b)(13) of this section), and areas in which gowning occurs must be environmentally controlled. Sections 212.29, 212.42, 212.44, 212.45, 212.221, 212.223, and 212.232 establish the requirements for environmental control to be followed.

(3) "F_0" means the equivalent amount of time, in minutes at 121° C or 250° F, which has been delivered to a product by the sterilization process. The "F_0" may be calculated by several methods. One method is to integrate the time the product is exposed to heat in terms of equivalent time at 121° C or 250° F. For such calculation, a "z" value of 10° C or 18° F is assumed; the term "z" value means the slope of the thermal death time curve and may be expressed as the number of degrees Fahrenheit required to bring about a tenfold change in the death rate. A second method of determining the F_0 is based on data obtained by the use of biological indicators. (For further background regarding the F_0 value see "Laboratory Manual for Food Canners and Processors," Vol. 1, National Canners Association, Avi Publishing Co., Westport, CT, 1968, pp. 220–251; "Industrial Sterilization," Phillips & Miller, Duke University Press, Durham, NC, 1973, pp. 239–282; or "Thermobacteriology in Food Processing," C. R. Stumbo, Academic Press, 1973.)

(4) "HEPA filter" means a high efficiency particulate air filter with the capability of retaining 99.97 percent of particulates greater than 0.3 micron in diameter.

(5) "Heat distribution study" means a study designed to ascertain whether or not the sterilizing medium in the sterilizer is uniform during the sterilization process.

(6) "Heat penetration study" means a study designed to indicate the amount of heat received by the drug product during the sterilization process.

(7) "Laminar flow" means the movement of an entire body of air within a confined area with uniform planar velocity along parallel flow lines.

(8) "Per day" or "daily" means a time period of 24 hours on days when manufacturing processes are being performed.

(9) "Particulate matter" means mobile, undissolved substances, other than gas bubbles, unintentionally present in a large volume parenteral drug product.

(10) "Pyrogen" means a substance in a large volume parenteral drug product that can cause a febrile or fever-producing reaction in man.

(11) "Static line" means any pipe containing liquid that is not emptied or circulated at least once every 24 hours.

(12) "Sterilization process" means the application of heat to sealed containers under specific conditions of time, temperature, and pressure.

(13) "Transfer area" means any area of the manufacturing plant, other than weighing, mixing, or filling areas, where the components, in-process materials, drug products, and drug product contact surfaces of equipment, containers, and closures after final rinse of such surfaces are exposed to the plant environment.

§ 212.5 Alternative facilities, equipment, processes, or control procedures; relation to new drug applications.

(a) The regulations in this part specify some of the facilities, types of equipment, processes, and controls that must be used to obtain a desired result for the final large volume parenteral drug product. These requirements set forth what the Food and Drug Administration has found

to be the current good manufacturing practice for the manufacture, processing, packing, and holding of large volume parenteral drug products. It is not the intent of the Food and Drug Administration, however, to curtail technological advance in the form of new facilities, types of equipment, processes, or controls, where such advance accomplishes at least the results attainable by strict compliance with these regulations. Nor is it the intent to require compliance when to do so would lead to the alteration, degradation, or instability of the end product.

(b) Alternative facilities, types of equipment, processes, or controls may be used by a manufacturer if he has adequate data establishing that the alternative is equal or superior to that required in this part in terms of assuring that the large volume parenteral drug product meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess. The burden shall be on the manufacturer to show that the alternative can deliver the same result as, or a better result than, that attained by strict compliance with these regulations.

(1) For any large volume parenteral drug product subject to section 505 of the act:

(i) The use of any such alternative described in the application or supplement approved on or before (insert effective date of final regulation) shall continue as a commitment of the holder of the application until modified pursuant to a supplemental application under § 314.8 (c) or (d) of this chapter.

(ii) The introduction of any such alternative after (insert effective date of final regulation) shall be subject to a supplemental application (including the data described in paragraph (b) of this section) under § 314.8(d) of this chapter.

(2) For any large volume parenteral drug product not subject to section 505 of the act, the use of any such alternative shall be conditioned upon the manufacturer having in his files the data described in paragraph (b) of this section and available upon request from the Food and Drug Administration.

(c) Except as provided in paragraphs (d) and (e) of this section, the requirements of this part supersede any commitments contained in a new drug application approved on or before (insert effective date of final regulation) regarding any alternative facilities, types of equipment, processes, or controls that are not equal or superior to that required in this part in terms of assuring that the large volume parenteral drug product meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, that it purports or is represented to possess.

(d) Any large volume parenteral drug product that would be affected, degraded, or rendered unstable in terms of its safety, identity, strength, quality or purity if made in strict compliance with the minimal sterilization process specified in § 212.240 may be processed at an F_o of less than 8 under the following conditions:

(1) There is documented evidence, including data and information, showing that the requirements of § 212.240 will affect, degrade, or render the product unstable in terms of its safety, identity, strength, quality, or purity.

(2) There is adequate data that establishes the maximum F_o that can be tolerated by the drug product.

(3) There is evidence, including results of microbiological challenge, that such alternative F_o value is adequate for the sterilization process.

(4) For large volume parenteral drug products that are subject to section 505 of the act, approval for an alternative sterilization process shall be obtained through approval of a new drug application or supplemental new drug application on or after (insert effective date of final regulation).

(5) For large volume parenteral drug products not subject to section 505 of the act, the manufacturer shall maintain for inspection under section 704 of the act any data, evidence, or other information in support of the sterilization process used in lieu of the process in § 212.240.

(e) For large volume parenteral drug product subject to section 505 of the act that would be affected, degraded, or rendered unstable in terms of its safety, identity, strength, quality or purity if made in strict compliance with the requirements of this part, other than those regarding the minimum sterilization process specified in § 212.240, shall be subject to a suplemental new drug application under § 314.8(c) of this chapter approved after (insert date of final regulation). Such application shall describe the reasons for such effect, degradation or instability; shall set forth the alternative facilities, types of equipment, processes, or controls proposed to be used, or proposed to be continued in use; and subject to a supplemental new drug apalternatives.

Subpart B—Organization and Personnel

§ 212.22 Responsibilities of quality control unit.

(a) The quality control unit shall have the responsibility and authority to test and accept or reject the design, engineering, and physical facilities of the plant, the equipment, and the manufacturing process and control procedures to be used in the manufacture, processing, packing, and holding of each large volume parenteral drug product. The quality control unit shall reject any such plant, equipment, process, or procedure if it does not comply with the provisions of this part or if, in the opinion of the quality control unit, it is not suitable or adequate to assure that the drug product has the characteristics it purports or is represented to possess.

(b) The quality control unit shall have the responsibility and authority to test and accept or reject the container-closure system, and the delivery system if attached, to be used in the manufacture, processing, packing, and holding of the intended large volume parenteral drug product. The quality control unit shall reject any such system if it does not comply with the provisions of this part, in particular the requirements of § 212.94, or if, in the opinion of the quality control unit, it is not capable of holding the product invulnerable to contamination under the intended or contemplated conditions of shipment, storage, and use.

(c) The quality control unit shall have the responsibility and authority to test and approve or reject any changes in previously approved plant, equipment, processes, procedures, and container-closures and delivery systems before utilization in the manufacture, processing, packing, and holding of a large volume parenteral drug product.

§ 212.29 Personnel responsibilities in controlled environment areas.

(a) Procedures for entering and leaving any controlled environment area shall be written. Access to a controlled environment area shall be limited to persons trained in procedures for entering, maintaining the environmental integrity of, and leaving such areas.

(b) Prior to entering a controlled environment area (other than a gowning area), personnel shall remove jewelry and unnecessary cosmetics and shall don protective gowns and footwear meeting the following standards:

(1) Gowns shall be designed appropriately to cover the head and body. Gowns may replace or cover plant uniform apparel.

(2) Gowns shall be made of nonlinting materials.

(3) Gowns may be either reuseable or disposable. If disposable, a new gown shall be donned for each entry or reentry into a controlled environment area. If reuseable, a laundered gown shall be donned for such entry or reentry.

(4) Gowns shall be clean and shall be stored and handled to minimize microbial contamination and the accumulation of particulates.

(c) Donning of gowns and footwear, and washing preparatory to entering a controlled environment area (other than a gowning area), shall be performed in specifically designated gowning areas that shall meet the requirements for a controlled environment area as defined in § 212.3(b)(2).

Subpart C—Buildings and Facilities

§ 212.42 Design and construction features.

(a) Walls, floors, ceilings, fixtures, and partitions in controlled environment areas shall:

(1) Have a smooth, cleanable finish that is impervious to water and to cleaning and santitizing solutions;

(2) Be constructed of materials that resist chipping, flaking, oxidizing, or other deterioration.

(b) Floors that are cleaned by flooding or floors that are in areas where operations discharge water or liquid product waste onto the floor shall be curved (coved) at the floor-wall junction. Floors

shall be sloped to a drain and sealed to facilitate cleaning.

(c) There shall not be horizontal fixed pipes or conduits over exposed components, in-process materials, drug products, and drug product contact surfaces, including drug product containers and closures after the final rinse.

(d) In each physically separated area, pipes or conduits for air or liquids shall be identified as to their contents. Such identification shall be by name, color code, or other suitable means.

§ 212.43 Sterilization areas.

Sterilization areas shall be designed and equipped to prevent intermingling of sterilized and unsterilized material or drug products.

§ 212.44 Lighting.

Lighting fixtures in controlled environment areas shall:

(a) Be constructed in a manner to prevent any accumulation of dust and to facilitate cleaning.

(b) Be covered to prevent scattering of any material in case of breakage.

§ 212.45 Gowning area.

There shall be a gowning area that is:

(a) Located immediately adjacent to the controlled environment work areas served;

(b) Supplied with air so that the area has a negative air pressure relative to any controlled environment work area served and has a positive air pressure relative to the atmosphere and to any adjacent noncontrolled environment area; the requirements for air in controlled environment areas are found in § 212.221. The air pressure differential shall be monitored;

(c) The sole means of personnel entry and exit at each controlled environment work area served, except for emergencies;

(d) Equipped with receptacles for disposal of used garments;

(e) Equipped with surgical type handwashing facilities and warm-air handdrying equipment.

§ 212.47 Compressed air.

Each building shall include a compressed-air processing and distribution system capable of supplying compressed air meeting the requirements of § 212.223 to sites where needed.

§ 212.49 Water and other liquid-handling systems.

(a) Filters may not be used at any point in the water for manufacturing or final rinse piping system.

(b) Backflow of liquids shall be prevented at points of interconnection of different systems.

(c) Pipelines for the transmission of water for manufacturing or final rinse and other liquid components shall:

(1) Be constructed of welded stainless steel (nonrusting grade) equipped for sterilization with steam, except that sanitary stainless steel lines with fittings capable of disassembly may be immediately adjacent to the equipment or valves that must be removed from the lines for servicing and replacement.

(2) Be sloped to provide for complete drainage.

(3) Not have an unused portion greater in length than six diameters of the unused pipe measured from the axis of the pipe in use.

(d) Pipelines for the transmission of liquid in-process materials and drug products shall meet the requirements of paragraph (c) of this section except that pipelines capable of disassembly for manual cleaning may be used in lieu of the requirements of paragraph (c)(1) of this section.

§ 212.51 Production waste liquids.

(a) Drainage systems for production waste liquids shall not be utilized for sanitary waste. A means to prevent backflow of sanitary wastes into the process waste lines shall be provided and shall be located outside of the immediate building where production occurs.

(b) Waste liquids shall be introduced to sewers through trapped drains. Drains from equipment shall be designed with an atmospheric break to prevent backsiphonage.

Subpart D—Equipment

§ 212.63 Equipment design, size, and location.

Equipment such as guide rails, diverters, and transfer mechanisms that contact glass bottles shall be designed to prevent damage, i.e., breakage, cracking, or chipping, to the bottles.

§ 212.65 Equipment construction.

Equipment shall be constructed so that surfaces that contact components, in-process materials, drug products, or the drug product contact area of containers or closures shall not affect the safety, identity, strength, quality, or purity of the large volume parenteral drug product.

§ 212.67 Equipment cleaning and maintenance.

The following requirements shall be included in written procedures and cleaning schedules:

(a) All equipment and surfaces that contact components, in-process materials, drug products, or drug product contact surfaces such as containers and closures shall be cleaned and rinsed with water meeting the quality requirements stated in § 212.224.

(b) Immediately prior to such contact, equipment and surfaces specified in paragraph (a) of this section shall be given a final rinse with water meeting the quality requirements stated in § 212.225.

(c) Steam used to sterilize liquid-handling systems or equipment shall be free of additives used for boiler control.

(d) Procedures for maintaining and cleaning dust-removal systems shall prevent the dispersion of dust into the plant environment.

§ 212.68 Equipment calibration.

(a) Procedures shall be written and followed designating schedules and assigning responsibility for testing or monitoring the performance or accuracy of automatic or continuously operating equipment, devices, apparatus, or mechanisms such as, but not limited to, the following:

(1) Alarms and controls on sterilizing equipment.

(2) Temperature-recording devices on sterilizers.

(3) Pressure gauges.

(4) Mechanisms for maintaining sterilizing medium uniformity.

(5) Chain speed recorder.

(6) Heat exchanger pressure differential monitor.

(7) Mercury-in-glass therometer.

(b) Written records of such calibrations, checks, examinations, or inspections shall be maintained, as specified in § 212.183.

§ 212.72 Filters.

(a) The integrity of all air filters shall be verified upon installation and maintained throughout use. A written testing program adequate to monitor integrity of filters shall be established and followed. Results shall be recorded and maintained as specified in § 212.183.

(b) Solution filters shall be sterilized and installed aseptically. The integrity of solution filters shall be verified by an appropriate test, both prior to any large volume parenteral solution filtering operation and at the conclusion of such operation before the filters are discarded. If the filter assembly fails the test at the conclusion of the filtering operation, all materials filtered through it during that filtering operation shall be rejected. Rejected materials may be refiltered using filters whose integrity has been verified provided that the additional time required for refiltration does not result in a total process time that exceeds the limitations specified in § 212.111. Results of each test shall be recorded and maintained as required in § 212.188(e).

§ 212.73 Sterilizers employing steam or air-steam mixtures.

Sterilizers employing steam or air-steam mixtures shall include the following features:

(a) *Mercury-in-glass thermometer.* Each sterilizer shall be equipped with at least one mercury-in-glass thermometer of known accuracy having a temperature range that spans not more than 56° C or 100° F in the processing range on a scale at least 18 centimeters or 7 inches in length. The scale divisions shall be in increments of no more than 1° C or 2° F. These thermometers shall be installed where they can be accurately and easily read. Bulbs of thermometers shall be installed either within the sterilizer shell or in external wells attached to the sterilizer. External wells or pipes shall be connected to the sterilizer through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening located to provide a full flow of the sterilizing medium past the length of the thermometer bulb.

(b) *Temperature-recording device.* Each sterilizer shall be equipped with an

accurate temperature-recording device adjusted to agree within 0.5° C or 1° F of a known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 1° C or 2° F within a range of 5° C or 10° F of the processing temperature. Each chart shall have a working scale of not more than 30° C or 50° F per inch within a range of 10° C or 20° F of the processing temperature. This recorder may be a recording-controlling instrument. The temperature recorder sensor shall have a response time not greater than 2 seconds for a 90 percent scale response. The temperature recorder sensor shall be installed either within the sterilizer shell or in a well attached to the shell, located to provide a full flow of the sterilizing medium past the length of the recorder sensor. External wells or pipes shall be connected to the sterilizer through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening.

(c) *Pressure gauges.* Each sterilizer shall be equipped with a pressure gauge having a scale graduated in increments of no more than 2 pounds per square inch of mercury (psig). All pressure gauges shall be equipped with a watertight pressure-transmitting diaphragm unless the gauge is connected directly to the sterilizer, or a connecting line by a straight, self-draining pipe or tube no more than 10 centimeters or 4 inches in length.

(d) *Air and steam controls.* (1) Each sterilizer shall be equipped with a steam controller to maintain the sterilizer temperature.

(2) The steam controller shall be designed to be activated by temperature variation rather than by pressure variation, and shall be designed to prevent unauthorized changes.

(3) The steam controller may be combined with a recording thermometer. For sterilizers using air-steam mixtures, there shall be mechanisms capable of establishing and maintaining the degree of temperature uniformity required for the sterilization process, the testing of which is required in § 212.243, and a means of automatically controlling and recording the ratio of air and steam introduced into the vessel so that the prescribed air-steam ratio is maintained.

(e) *Steam introduction.* Steam may enter either the top or bottom of the sterilizer. The steam inlet shall be located in that portion of the sterilizer opposite the vent and shall be large enough to provide sufficient steam for proper operation of the sterilizer.

(f) *Steam and air-steam distribution.* The distribution of steam or an air-steam mixture in the sterilizer shall be accomplished in a manner adequate to provide uniform heat distribution throughout the sterilizer. Steam spreader pipes from the steam line inside the sterilizer shall, individually, be no larger than the steam inlet line. Steam spreaders shall extend along the length of the sterilizer. The perforations shall be along a 90° sector of the spreader and shall direct steam toward the central longitudinal axis of the sterilizer. Horizontal steam sterilizers over 30 feet long shall have at least two steam inlets connected to the spreader. The total cross-sectional area of the perforations shall be equal to 1½ to 2 times the cross-sectional area of the steam inlet line. Any mechanical device utilized to maintain uniformity of the sterilizing medium within the sterilizer shall be equipped with both audio and visual alarms to signal improper operation.

(g) *Bleeders.* Bleeders, except those for thermometer and temperature recorder sensor wells, shall be ⅛ inch or larger. Bleeders shall be located within approximately 1 foot of each end of the sterilizer. At least one bleeder shall be located so that the operator can observe whether bleeders are functioning properly during processing.

(h) *Air overpressure.* The sterilizer shall be supplied with a source of compressed air meeting the requirements of § 212.223. The sterilizer shall have a mechanism to ensure that overpressure is established before cooling begins and a means of controlling the overpressure within established limits.

(i) *Water level controls and indicator.* The sterilizer shall be equipped with an apparatus to control the level of water within the sterilizer so that the water does not come into contact with the lowest container in the vessel. The apparatus shall be so constructed that when a predetermined water level is reached, it automatically opens a drain valve. There shall be an audio and visual alarm system, independent of the water-level controlling apparatus, which is activated if the water exceeds the predetermined level. There shall be a visual means of observing the water level in the sterilizer during its operation.

(j) *Vents.* Vents shall be installed so that before they are closed all air is removed from steam sterilizers and excess air is removed from sterilizers employing air-steam mixtures. Vents shall be controlled by gate, plug cock, or other suitable types of valves that can be fully opened to permit rapid discharge of air from the sterilizer during the venting period. Vents shall not be connected directly to a closed drainage system without an atmospheric break. If an overflow pipe is used as a vent, there shall be an atmospheric break in the line before it connects to a closed drain. Where several vent pipes from a single sterilizer are connected to a manifold, venting through the manifold shall be controlled by a gate, plug cock, or other suitable type of valve that can be fully opened to permit rapid discharge of air from the sterilizer during the venting period. The cross-sectional area of the manifold shall be larger than the total cross-sectional area of all connecting vent pipes. The manifold shall not be directly connected to a closed drain without an atmospheric break in the line. A header connecting vent pipes or manifolds from several sterilizers shall lead to the atmosphere, and the venting shall be controlled by valves in the manifold or vent pipes for each sterilizer. The header shall not be controlled by a valve and shall be of such a size that the cross-sectional area of the header is at least equal to the total cross-sectional area of all connecting vent or manifold pipes from all sterilizers venting simultaneously.

(k) *Drain valves.* A nonclogging watertight valve such as a ball or plug type shall be used. Screens shall be installed over all drain openings.

(l) *Cooling equipment.* (1) Sterilizers using air, as referred to in § 212.223, for pressure cooling shall be equipped with a ball or gate valve or suitable valve and piping arrangement on the air line to prevent air leakage into the sterilizer during processing.

(2) Lines transmitting water (the requirements for which are stated in § 212.226) to the sterilizer for cooling the drug product after sterilization, including any connected heat exchangers, shall be designed so they can be drained and sterilized. They shall provide a separate loop for each sterilizer. The system shall include a means for treating the cooling water to eliminate microorganisms; however, filtration shall not be used as a means for such treatment. The cooling lines shall not be connected to a drain without an atmospheric break. Interconnections between water cooling systems and all other systems, such as compressed air, shall be designed with a means of preventing backflow. A pump may be used for circulating cooling water. Any additional cooling water added to the circulating water shall be introduced into the suction side of the pump.

§ 212.74 Sterilizers employing superheated water.

Sterilizers employing superheated water shall conform to the requirements of § 212.73(a), (b), (c), (j), (k), and (l) and shall include the following additional features:

(a) *Steam introduction.* In horizontal sterilizers the steam distributor shall extend the length of the bottom of the sterilizer with perforations distributed uniformly along the upper part of the pipe.

(b) *Water quality.* The water used in this sterilization process shall meet the requirements of § 212.224.

(c) *Water level controls and indicator.* There shall be an automatic method of controlling water level to assure that all containers are covered, and it shall be provided with an audio and visual alarm system to signal any malfunction. There shall be a means of observing the water level in the sterilizer during its operation.

(d) *Air supply and controls.* A means shall be provided for introducing compressed air, as described in § 212.223, at the proper pressure and rate. The pressure shall be controlled by an automatic pressure control unit. If compressed air is used to promote circulation, it shall be introduced into the steam line at a point between the sterilizer and the steam control valve at the bottom of the sterilizer.

(e) *Water circulation.* When a water circulation system is used for heat distribution, it shall be installed in such a manner that water will be drawn from the bottom of the sterilizer through a suction manifold and discharged through a spreader that extends the length of the top of the sterilizer. The holes in the water spreader shall be uniformly distributed and shall have an aggregate area not greater than the cross-sectional area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens to keep debris from entering the circulation system. The pump shall be equipped with a bleeder to remove air when starting operations and with an audio and visual alarm system to signal any malfunction.

(f) *Cooling water supply.* The water, as described in § 212.226, used to cool the drug product after sterilization shall be introduced at the top of the sterilizer and above the top of the containers. If cooling is done by complete submersion of the containers, the water for cooling shall be introduced below the water level.

§ 212.75 Hydrostatic sterilizers employing steam under pressure.

Hydrostatic sterilizers employing steam under pressure shall conform to the requirements of § 212.73(c), (d), (i), (j), (k), and (l) and shall include the following additional features:

(a) *Mercury-in-glass thermometer.* Each sterilizer shall be equipped with at least one mercury-in-glass thermometer with a temperature range of not more than 56° C or 100° F in the processing range on a scale at least 18 centimeters or 7 inches in length. The mercury-in-glass thermometers shall be located near the bottom automatic recorder so that they can be accurately and easily read.

(b) *Temperature recorder device.* Each sterilizer shall be equipped with an accurate temperature-recording device adjusted to agree within 0.5° C or 1° F of a known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 1° C or 2° F within a range of 5° C or 10° F of the processing temperature. Each chart shall have a working scale of not more than 30° C or 50° F per inch within a range of 10° C or 20° F of the processing temperature. The temperature recorder sensor shall have a response time not greater than 2 seconds for a 90 percent scale response and may be installed either within the steam dome or in a well attached to the dome. Sensor wells shall have a $\frac{1}{16}$-inch or larger bleeder opening emitting steam continuously during the entire processing period. Additional sensors shall be installed in the hydrostatic water legs if the sterilization process specifies maintenance of particular temperatures in the hydrostatic water legs.

(c) *Steam introduction.* Steam may enter either to top or bottom of the steam dome of the sterilizer. The steam inlet shall be located in that portion of the sterilizer opposite the vent and shall be large enough to provide sufficient steam for proper operation of the sterilizer.

(d) *Bleeders.* Bleeder openings $\frac{1}{4}$ inch or larger shall be located in the steam dome opposite from the point of steam entry.

(e) *Chain speed.* The sterilizer shall be equipped with an automatic device that will stop the product container conveyor chain when the dome temperature drops below that specified in the sterilization process. A means of preventing unauthorized speed changes and a means of recording speeds shall be provided.

§ 212.76 Heat exchangers.

Heat exchangers, other than the welded double-concentric-tube type or double-tube sheet type, must employ a pressure differential and a means for monitoring the differential. The pressure differential shall be such that the fluid requiring a higher microbial quality shall be that with the greater pressure. Written records of the pressure differential monitoring shall be maintained as required in § 212.183.

§ 212.77 Laminar flow control equipment.

Equipment at the filling line and microbiological testing area shall provide HEPA-filtered laminar flow air. Such equipment shall:

(a) Have hood or air flow direction panels and working surface areas that are constructed of a smooth, durable, nonflaking material such as glass, plastic, or stainless steel.

(b) Have prefilters that are disposable or fabricated from a material that can be properly cleaned and reused.

(c) Have HEPA final filters that have been tested to assure leak proof construction and installation.

(d) Provide a laminar air flow with an average velocity of 90 feet per minute over the entire air exit area. The velocity shall not drop below 75 or exceed 105 feet per minute at any point.

(e) Provide shadowless illumination with a minimum intensity of 100 foot-candles at the working level.

(f) Be in operation for at least 15 minutes before beginning filling or microbial-testing operations.

(g) Be monitored according to a written program and schedule for compliance with the requirements of paragraphs (c), (d), and (e) of this section and as stated in § 212.231. Written records shall be maintained of all test results and any corrective measures taken, as required in § 212.183.

§ 212.78 Air vents.

All stills and tanks holding liquid requiring microbial control shall have air vents with non-fiber-releasing sterilizable filters capable of preventing microbial contamination of the contents. Such filters shall be designed and installed so that they do not become wet. Filters shall be sterilized and installed aseptically. Tanks requiring air vents with filters include those holding water for manufacturing or final rinsing, water for cooling the drug product after sterilization, liquid components, and in-process solutions.

§ 212.79 Pumps.

Pumps moving water for manufacturing or final rinsing, water for cooling the drug product after sterilization, and in-process or drug product solutions shall be designed to utilize water for injection as a lubricant for the seals.

Supart E—Control of Components, Drug Product Containers, Closures, and In-Process Materials

§ 212.81 Operations requiring controlled environment.

The weighing, mixing, or filling of large volume parenteral drug products and transfer operations, as described in § 212.3(b)(13), shall be performed in specifically designated areas that shall meet the requirements for a controlled environment area as defined in § 212.3(b)(2).

§ 212.84 Testing and approval or rejection of components, drug product containers, and closures.

(a) Representative samples of all components, even though not generally considered liable to microbiological contamination, shall be periodically subjected to microbiological examinations on a scheduled basis according to a written program. Components shall not contain heat resistant spores or other microbiological contaminants that are objectionable in view of the use of the component and the manufacturing process to which it will be subjected. Component specifications shall include microbiological limits based on data that have been obtained from the periodical microbiological testing program. Such limits shall be approved by the quality control unit as part of component specifications.

(b) Representative samples of each shipment of each manufacturer's lot of components, drug product containers, and closures shall be tested for pyrogenic properties prior to release by the quality control unit for use in production, as required in § 212.167(a). Those lots that do not conform to established specifications shall be rejected. Rejected lots of components, containers, and closures may be reprocessed to remove the pyrogenic properties provided there is assurance that the reprocessed material will meet appropriate standards, specifications and characteristics.

(c) Water used as a component shall meet the requirements of § 212.225 of this part.

§ 212.94 Drug product containers and closures.

(a) The quality control unit shall test the drug product container-closure system to be employed for a large volume parenteral drug product, and the delivery system if attached, by chemical and physical tests and biological challenges to determine whether it is capable of holding the product invulnerable to contamination under the intended or contemplated conditions of shipment, stor-

age, and use. Any such system that is found incapable of so holding the product shall not be used. Written records of all testing under this paragraph shall be maintained as required in § 212.180.

(b) Each shipment of each lot of containers and closures shall be sampled and tested for physical characteristics according to a statistically valid sampling plan. Samples shall be examined by the quality control unit. If the reliability of the supplier has not been established or if the physical characteristics of containers or closures are changed, 100 percent inspection for physical defects shall be conducted until adequate data are collected to demonstrate the assurance of quality of these articles.

(1) When 100 percent inspection is performed, it shall be followed by the selection of a representative sample drawn according to a statistically valid sampling plan. This sample shall be examined by the quality control unit. If the results are satisfactory to the quality control unit, the lot may be approved for use.

(2) If the results of the examination of the statistically drawn sample are not satisfactory to the quality control unit, the lot shall be rejected. Additional 100 percent reinspections of the lot may be performed as long as each one is followed by the selection of another statistically valid sample and examination by the quality control unit.

(c) A drug product container or closure shall not be used in the packaging of a drug product unless cleaned and initially rinsed with water meeting the requirements of § 212.224 and finally rinsed with water meeting the requirements of § 212.225.

Subpart F—Production and Process Controls

§ 212.100 Written procedures; deviations.

(a) The quality control unit shall test the manufacturing processes and control procedures to be used in the manufacture, processing, packing, and holding of a large volume parenteral drug product to determine whether they comply with the provisions of this part and are otherwise adequate to assure that the drug product has the characteristics it purports or is represented to possess. Any process or procedure that is found not to so comply or not to be so adequate shall not be utilized. Written records of all testing under this paragraph shall be maintained, as required in § 212.180.

(b) Written procedures shall be established, and shall be followed. Such procedures shall:

(1) Ensure that all static lines are flushed prior to use. Such procedures shall require that flushing produce a turbulent flow for 5 minutes and that all valves on the line are opened and closed repeatedly to flush the valve interior.

(2) Describe the action to be taken with regard to the drug product in the sterilizer if the automatic controls fail or the alarm systems signal a malfunction during sterilization operations.

§ 212.104 Accounting for losses in manufacturing.

Losses occuring in the manufacture of each batch, such as those due to breakage, improper fill volumes, in-process tests, and loss of bulk solution employed to flush solution lines and filling equipment, shall be identified, estimated in amount, and recorded.

§ 212.105 Equipment identification.

All sterilizer baskets, trucks, carts, crates, or any other contrivance used to hold a drug product during the sterilization process shall:

(a) Be plainly and conspicuously marked with a heat-sensitive indicator or other effective means to visually indicate whether or not they have been exposed to the sterilization process; and

(b) Be identified as to batch and lot. Such identification shall be retained in the batch production records, described in § 212.188.

§ 212.110 Sampling of in-process materials and drug products.

(a) Written procedures and schedules shall be established for statistically valid sampling and testing to include the following:

(1) Adequacy of mixing prior to filling.

(2) Identity and strength of the product.

(3) Levels of fill (net content).

(4) Vacuum, where applicable, or other indices of closure tightness.

(5) Solution clarity.

(6) pH.

(7) Microbial population.

(8) Pyrogenicity.

(9) Particulate matter.

(b) In-process materials and drug products not meeting established specifications shall be rejected.

§ 212.111 Time limitations on production.

The time elapsing between the addition of water for manufacturing (product make-up water) to the mixing tank and the exposure of the last unit filled to the start of sterilization cycle may not exceed 8 hours.

§ 212.116 Filtration.

(a) Prior to filling, large volume parenteral drug products shall be filtered through systems having a final mean porosity of no more than 0.45 micron; except, however, a final filter with a mean porosity of greater than 0.45 micron may be used for viscous products if necessary to provide a flow rate that will keep the production time in conformity with § 212.111. When it is necessary to use a filter with a porosity of greater than 0.45 micron because of solution viscosity, such filter shall be the minimum porosity that will provide a flow rate to keep production time in conformity with § 212.111.

(b) Final filtration of solutions shall be performed immediately prior to filling. Process specifications shall indicate the maximum time during which a filtration system may be used. Such time length shall preclude microbial build-up to levels that may affect the biological quality of the large volume parenteral, and in no case shall it exceed 8 hours.

(c) Filters shall be tested as specified in § 212.72.

§ 212.117 Drug product inspection for particulate matter.

(a) All large volume parenteral drug products shall be visually examined for particulate matter against black and white backgrounds after sterilization. The source and direction of light should enhance the visibility of particulate matter. An alternate method of examination may be employed if data are available that demonstrate that the alternate method is at least as sensitive and accurate as the visual examination.

(b) Any drug product found to contain visual particulate matter shall be rejected.

(c) Records of the examination performed shall be maintained as specified in § 212.188(i).

§ 212.118 Reuse of sterilized glass.

Written procedures shall be established and followed for the reuse of glass that has previously been subjected to the sterilization process. Such procedures shall include:

(a) Data from studies performed showing the effect of repeated sterilization upon the capability of the containers to meet all established specifications;

(b) The number of times that any drug product container may be subjected to sterilization processes;

(c) Written records as specified in § 212.184.

Subpart G—Packaging and Labeling Control

§ 212.130 Packaging and labeling operations.

The materials employed to package large volume parenteral drug products for shipment shall be adequate to protect the containers and container-closure systems from damage during customary conditions of shipment and handling.

Subpart H—Holding and Distribution

§ 212.142 Warehousing procedures.

The written procedures describing warehousing of large volume parenteral drug products shall include specific directions concerning stacking of cases so that storage does not jeopardize the identity, strength, quality, or purity of the drug product.

§ 212.150 Distribution procedures.

Written procedures that provide for proper handling of large volume parenteral drug products during shipment shall be established and followed. The services of any carriers who are found routinely to handle large volume parenteral drug products in a manner that may affect the identity, strength, quality or purity of these drug products shall be discontinued.

Subpart I—Laboratory Controls

§ 212.167 Special testing requirements.

(a) For each batch of a large volume parenteral drug product and prior to sterilization, there shall be laboratory

testing to determine whether or not it meets the requirements for the absence of pyrogens when tested according to the method prescribed in the U.S.P. An alternate test method may be employed provided that data are available to demonstrate that the alternate method is as sensitive and accurate as the U.S.P. method.

(1) Containers from among the first and last containers filled in a batch shall be examined for pyrogens.

(2) A pyrogen test shall be performed on the first container filled following any significant stoppage during filling, e.g., when filters are changed.

(3) Samples for pyrogen testing may be combined or pooled only when the quantity of material in a container does not provide sufficient material with which to perform the test.

(b) For each lot of large volume parenteral drug product there shall be laboratory testing of filled containers after sterilization to determine the degree of contamination with particulate matter. The sampling and testing conducted shall be sufficient to assure that the entire lot conforms to standards specified in the U.S.P. for particulate matter in large volume injections for single-dose infusion drug products. Alternative methodology may be used if data are available to demonstrate that the alternative method is equivalent to the U.S.P. method.

(c) For each lot of large volume parenteral drug product there shall be laboratory testing for sterility of filled containers after sterilization. The test procedures for membrane filtration specified in the U.S.P. or an equivalent sterility testing method shall be used.

(d) HEPA laminar flow hoods meeting the specifications of §§ 212.77 and 212.222 shall be used in the performance of microbiological tests.

Subpart J—Records and Reports

§ 212.180 General requirements.

Records documenting the testing by, and approval of, the quality control unit regarding the design, engineering, and physical facilities of the plant, the equipment, process and control procedures, and the container-closure systems used in the manufacture, processing, packing, and holding of a large volume parenteral drug product, shall be available for inspection at the establishment where such manufacture, processing, packing, or holding occurs. Such records shall be maintained for at least 2 years after the expiration date of each batch of drug product manufactured, processed, packed, or held in such plant, by such equipment, process or procedure, or with such container-closure system.

§ 212.182 Equipment cleaning and use log.

(a) Written records of the corrective action taken pursuant to §§ 212.224 (a) and (c), and 212.225 (a) and (b), including validation of the effectiveness of the action, shall be maintained.

(b) Written records of equipment usage shall include documentation of the length of time the equipment was in use as indicated in § 212.111.

(c) Written records demonstrating a positive pressure differential, as described in and required by § 212.76, shall be maintained.

(d) For hydrostatic sterilizers, written records of usage shall also contain the chain speed chart as indicated by § 212.245(h) and the temperature charts for the various portions as indicated by § 212.245(g) identified with the names and lot numbers of material processed.

(e) For filtration equipment or devices, written records documenting the installation, replacement, and sterilization (where appropriate) of filters such as those indicated in §§ 212.72, 212.77(b) and (c), 212.78, and 212.222(a) shall be maintained.

§ 212.183 Equipment calibration and monitoring records.

Written records of calibration and monitoring tests and readings performed shall be maintained for at least 2 years after the expiration date of each batch of drug product produced by the equipment.

(a) Calibration records shall include:

(1) A description of the equipment.

(2) The date the equipment was purchased.

(3) The operating limits of the equipment.

(4) The date, time, and type of each test.

(5) The results of each test.

(6) The signature of each person performing a test.

(7) The date the equipment was installed.

(b) Monitoring records shall include:

(1) A description of the equipment.

(2) The date the equipment was installed.

(3) The date the equipment was last calibrated, if appropriate.

(4) The operating limits of the equipment.

(5) The date and time of the recording.

(6) The reading.

(7) The signature of each person performing the monitoring.

(c) Corrective measures employed to bring the equipment into compliance with its operating specifications shall be:

(1) Recorded in the appropriate equipment log.

(2) Noted in the calibration and/or monitoring record.

(3) Immediately followed by testing to assure that the corrective measures were adequate to restore the required operating characteristics.

§ 212.184 Component, drug product container, closure, and labeling records.

Inventory records of any reused component, container, closure, or in-process material shall be maintained. Such records shall include the results of any examination or testing performed to determine the acceptability of any such article for reuse.

§ 212.188 Batch production and control records.

These records shall include the following information where appropriate:

(a) Time and temperature data from the sterilization process employed, as indicated by §§ 212.73 (a) and (b), 212.74, 212.75 (a) and (b), and 212.245 (d) and (g), identified with the date and batch number of large volume parenteral produced.

(b) Data produced when an air-steam mixture is the sterilizing medium as indicated by § 212.73(d).

(c) Documentation that overpressure was established prior to the initiation of cooling and maintained as indicated in §§ 212.73(h) and 212.74(d).

(d) Records of the sterilizer chain speed as indicated in §§ 212.75(e) and 212.245(h), identified with the date and the batch number of the material processed.

(e) Data from tests or checks made to show that the filter assembly was intact as indicated in § 212.72(b).

(f) The amount of time elapsed for significant phases of production as indicated in § 212.111.

(g) Information indicating what portion of a batch was sterilized in a specific sterilizer, along with the identification used on each basket, truck, cart, crate or other contrivance used to hold the drug product during the sterilization process as indicated in § 212.105.

(h) The results and data from in-process tests as performed in accordance with § 212.110.

(i) The number of units inspected, rejected, and accepted, and the classification of the defects causing rejection such as indicated in § 212.117.

(j) The quantities of reused components, drug product containers, and closures, or in-process materials used in the manufacture of a batch.

(k) The results of the aerobic plate counts and relative heat resistance tests as indicated in § 212.245(e).

(l) Verification that static lines were flushed prior to use according to established written procedures in § 212.100(b).

(m) Complete information on the action taken if automatic sterilizer controls fail or alarms are activated during sterilization of a batch as indicated in § 212.100(b).

(n) The results of checks made to determine that bleeders are operating satisfactorily during the sterilization of a batch as required in § 212.245(c).

§ 212.190 Air and water monitoring records.

Written records of the air and water monitoring test results, readings, and corrective measures taken shall be maintained for at least 2 years after the expiration date of each batch of drug product produced in the area being monitored or containing the water as a component.

The record shall include, at a minimum, the following information:

(a) Identity of the material being monitored.

(b) Each characteristic being monitored.
(c) Each specification limit.
(d) Each testing method used.
(e) Site sampled or monitored.
(f) The date and time of each monitoring or testing.
(g) The result of each test or monitoring reading.
(h) Batch number and expiration date of the drug product being processed in the area or equipment, or to which the component is being added at the time of monitoring or sampling.
(i) Corrective measures employed to bring the area, component or product into compliance with specifications.
(j) Retesting results to verify the adequacy of the corrective measures.

§ 212.192 Production record review.

The review and approval of production and control records by the quality control unit shall extend to those records not directly related to the manufacture, processing, packing, or holding of a specific batch of large volume parenteral drug product but which have a bearing on the quality of batches being produced. Such indirectly related records shall include:
(a) Those dealing with equipment calibration or standardization.
(b) Those demonstrating control of the sterilization process.
(c) Those demonstrating the quality of water produced by various processing systems.
(d) Those demonstrating the quality of air produced by various systems.

Subpart K—[Reserved]

Subpart L—Air and Water Quality

§ 212.220 General requirements.

(a) Air or water as described in this part may not be used until the plant, processes, and procedures used in producing and distributing it have been tested and approved by the quality control unit as capable of consistently producing air or water meeting the requirements set forth in this subpart.
(b) In addition to the requirements of this subpart, air and water quality shall be monitored as specified in Subpart J.
(c) The results of all testing and data generated shall be recorded and maintained as required by § 212.180.
(d) Procedures designating schedules, assigning responsibility, and describing in detail the action to be taken to assure that the systems produce and deliver air and water that conform to the requirements set forth in this subpart shall be written. Such procedures shall also specify the corrective action to be taken when testing reveals that the established standards are not being met. Records of corrective actions shall be maintained, as specified in § 212.190.

§ 212.221 Air in controlled environment areas.

Air in controlled environment areas shall have:
(a) A per-cubic-foot particle count of not more than 100,000 in a size range of 0.5 micron and larger when measured with automatic counters, or 700 particles in a size range of 5.0 microns or larger when measured by a manual microscopic method.
(b) A temperature of 72° F±5° or 22° C±3°.
(c) A maximum relative humidity of 50 percent and a minimum of 30 percent.
(d) A positive pressure differential of at least 0.05 inch of water with all doors closed in relation to less clean adjacent areas.
(e) At least 20 air changes per hour.

§ 212.222 Air over filling lines and at microbiological testing sites.

Air over filling lines and at microbiological testing sites shall:
(a) Have a per-cubic-foot particle count of not more than 100 in a size range of 0.5 micron and larger throughout the entire work area upstream of the work piece.
(b) Be supplied at the point of use as specified in § 212.77.

§ 212.223 Compressed air.

Compressed air used in manufacturing and processing operations, including the sterilization process, shall be:
(a) Filtered at points of use to meet the requirements of the area:
(1) Compressed air to be used in the sterilizer after the sterilization process shall meet the requirements of § 212.222 (a) for particle count and size.
(2) Compressed air to be used at the filling line or microbiological testing area shall meet the requirements of § 212.222(a) for particle count and size.
(3) Compressed air to be used in controlled environment areas shall meet the requirements of § 212.221(a) for particle count and size.
(b) Supplied by an oil-free compressor and be free of oil and oil vapor unless vented directly to a noncontrolled environment area.
(c) Dehumidified to prevent condensation of water vapor in the pipes.

§ 212.224 Water for cleaning or initial rinsing.

Water used to cleanse or initially rinse drug product contact surfaces such as containers, closures, and equipment shall:
(a) Meet the standards prescribed in the Public Health Service Drinking Water Standards set forth in Subpart J of 42 CFR Part 72;
(b) Be subjected to a process such as chlorination for control of microbial population;
(c) Contain not more than 50 microorganisms per 100 milliliters in three consecutive samples from the same sampling site when tested by the method specified in § 212.225(b) after neutralizing bacteriocidal agents, if present.

§ 212.225 Water for manufacturing or final rinsing.

Water used as a component or as a final rinse for equipment or product contact surfaces shall:
(a) Conform to the specifications in the U.S.P. for "Water for Injection":
(b) Contain not more than 10 microorganisms per 100 milliliters in three consecutive samples from the same site when samples of 250 milliliters or more are tested for total aerobic count by the plate method set forth in Microbial Limit Tests in the current revision of the U.S.P. Alternate methodology may be used provided that data are available to demonstrate that the alternate method is equivalent to the official method. When the microbial quality falls below that specified in this section, use of such water shall cease, and corrective action shall be taken to clean and sterilize the system so that the water conforms to the limit.
(c) Be stored in a suitable vessel or system including a piping network for distribution to points of use:
(1) At a temperature of at least 80° C under continuous circulation, or
(2) At ambient or lower temperatures for not longer than 24 hours, after which time such water shall be discarded to drain.

§ 212.226 Water for drug product cooling.

Water used in the sterilizer as a drug product cooling medium shall:
(a) Be treated to eliminate microorganisms;
(b) Contain not more than one microorganism per 100 milliliters in three consecutive samples from the same sampling site when one liter or more are tested for total aerobic count by a membrane filtration method and placing each membrane filter on appropriate nutrient media after neutralizing any bacteriocidal agents present in the water samples.

§ 212.227 Boiler feed water.

Feed water for boilers supplying steam that contacts components, in-process materials, drug products, and drug product contact surfaces shall not contain volatile additives such as amines or hydrazines.

§ 212.231 Monitoring of air and water quality.

(a) After the plant, equipment, manufacturing processes, and control procedures have been tested and approved by the quality control unit, there shall be performed in accordance with written procedures and schedules a sampling and testing program that is designed to monitor the microbial flora of the plant and its environment. The design of the sampling and testing program shall include monitoring of air and water quality in accordance with requirements set forth in this subpart and taking corrective action when such requirements are not met.
(b) If the results of any one sample of air or water exceed the quality limits specified in this subpart, more frequent sampling and testing shall be required to determine the need for corrective action.
(c) Representative colonies of microorganisms found by the monitoring required in this section shall be identified by genus. The colonies shall be quantified.
(d) Written records of all test findings and any resultant corrective measures

taken shall be maintained, as specified in § 212.190.

§ 212.232 Air quality program design.

The air quality shall be monitored:

(a) At least once a day and shall include weekly sampling at all sampling ports or points of use in the compressed air distribution system.

(b) At HEPA filter laminar flow equipment.

(c) At the filling lines while filling is in progress and at the same level as the container opening.

(d) In controlled environment areas to assure that the requirements of § 212.221 (a) through (d) are met.

§ 212.233 Water quality program design.

(a) Water quality monitoring shall include:

(1) Sampling and testing of water for manufacturing or final rinsing at least once a day. All sampling ports or points of use in the distribution system shall be sampled at least weekly.

(2) Sampling water for drug product cooling at a point just before entry into the sterilizer at least once each sterilizer cycle and testing by the method described in § 212.226.

(3) Sampling and testing water for cleaning or initial rinsing at least once a week. All sampling ports or points of use in the distribution system shall be sampled at least monthly.

(b) Boiler feed water shall be sampled and tested periodically for the presence of volatile additives.

(c) If three consecutive samples of drug product cooling water exceed microbial limits, the sterilizer loads shall be rejected and shall not be reprocessed.

Subpart M—Sterilization

§ 212.240 Methods of sterilization; minimal processing.

A manufacturing process for terminal sterilization of a large volume parenteral drug product may employ steam, mixtures of air and steam, or superheated water as the sterilizing medium, provided the procedure has been shown to deliver an F_o of 8 or more.

§ 212.243 Testing of sterilization processes.

(a) The quality control unit shall test the sterilization process to be used in the manufacture or processing of a large volume parenteral drug product in accordance with the requirements of this section. Written records of all testing under this section shall be maintained as specified in § 212.180. Any sterilization process not meeting the requirements of § 212.240 shall not be used. For any sterilization process that it approves, the quality control unit shall establish a maximum microbial count and a maximum microbial heat resistance for filled containers prior to sterilization.

(b) *Heat distribution studies.* Such studies shall be performed on every sterilizer, for each loading configuration, and for every container size. Enough studies shall be performed to confirm that the heat distribution in each autoclave is uniform and reproducible. Each study shall employ a minimum of 10 temperature sensors (calibrated both before and after the study) that are exposed to the sterilizing medium inside of the sterilizer. Heat distribution studies shall be repeated whenever there is any change in the loading pattern or any change in the sterilizer that may affect heat distribution.

(c) *Heat penetration studies.* Such studies shall be performed on each size container within the sterilizing medium to be utilized during production. Such studies shall be performed on large volume parenteral drug products at least as viscous as the most viscous solution to be packaged in the container studied. The studies shall be designed to determine the location of the slowest heating point in the container and to indicate how much time is required to bring the solution at that point to the prescribed processing temperature. Each study shall employ a minimum of 10 containers each with a suitable biological indicator and a temperature sensor submerged in fluid at the previously determined optimal location. In lieu of testing each rigid container size, interpolation may be employed for products in rigid containers if data are available to support interpolation on the types and sizes of containers involved. Heat penetration studies shall be performed on every container size for products in nonrigid containers. Sufficient studies shall be performed to determine whether or not the prescribed F_o is delivered consistently throughout the sterilizer. The data employed to calculate the F_o value shall be those data derived beginning when the sterilizer environment has stabilized as shown by reproducible heat distribution studies and the specified sterilizer temperature has been achieved, and ending when cooling is initiated.

§ 212.244 Sterilization process design.

The following factors shall be included in the design of sterilization processes:

(a) *Procedures required to establish uniform heat distribution in the sterilizing medium in the vessel.* Such procedures shall be capable of holding temperatures throughout the sterilizer to within ±0.5° C or ±1° F from the time the product achieves process temperature until the heating portion of the cycle ceases.

(b) *Loading pattern of the sterilizer.* The uniformity of heat distribution shall be independently verified for every loading pattern utilized. The loading pattern must control any contact between containers.

(c) *Initial temperature of the product and sterilizer.* Such temperatures shall not fall below the minimum that has been established for the prescribed sterilization process.

(d) *Venting time.* The time required for venting the sterilizer shall be sufficient to purge it of air and establish a uniform sterilizing medium. This factor is not applicable to water immersion sterilization procedures.

(e) *Product come-up time.* The time required to heat the slowest heating container in the sterilizer to a specified "hold" temperature shall be determined in accordance with § 212.243(c).

(f) *Cooling time.* The initial temperature of the cooling water and the required rate of cooling shall be established.

§ 212.245 Sterilization process controls.

The following procedures and controls shall be applied to the sterilization process employed:

(a) The mercury-in-glass thermometer on each sterilizer shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once every 3 months therefter. Any thermometer found at any time to have a divided mercury column shall be immediately replaced. In the event that there is a variance of 0.5° C or 1° F or more between a recording thermometer and the mercury-in-glass thermometer with which it should agree, both thermometers shall be checked at the conclusion of the cycle. The bleeder for any external thermometer well must emit steam continuously during the entire processing period. The mercury-in-glass thermometer, not the recorder chart, shall be the reference instrument for indicating the chamber temperature unless it is known to have become defective during the sterilization cycle in question. Records shall be maintained reflecting all thermometer calibrations, recalibrations, checking, or replacements in accordance with § 212.183.

(b) Pressure gauges used on sterilizers shall be checked for accuracy at least once every 3 months; such checks shall be recorded in accordance with § 212.183.

(c) Bleeders on sterilizers so equipped shall be wide open during the entire sterilization process. They shall be checked regularly to ensure that they are functioning properly; such checks shall be recorded in accordance with § 212.188 (n).

(d) A minimum of two containers in each sterilizer lot shall be equipped with a suitable means for detecting the F_o delivered to the solution within. Such data shall be recorded and retained in appropriate batch production records.

(e) The first few containers filled in each batch shall be taken and held under conditions comparable to those under which the remainder of the batch is held until the entire batch is sterilized. These filled containers shall be used to determine the aerobic plate count and the relative heat resistance of the microbial population present. Similarly, the last few containers filled shall be taken and subjected to the same tests. If the microbial count or the microbial heat resistance for the last containers exceeds the maximum level established by the quality control unit in accordance with § 212.243 (a), or if there is a significant increase in the microbial count between the first units collected and the last, the batch shall not be released. The data generated shall be recorded in appropriate batch production and control records in accordance with § 212.188(k).

(f) In the operation of a water-immersion type sterilizer, all containers

shall be submerged during the entire heating, processing, and cooling periods. The head space necessary to control the pressure shall be maintained between the water level and the top of the sterilizer shell. Water circulation shall be maintained continuously during the heating, processing, and cooling periods.

(g) In the operation of a hydrostatic sterilizer, temperatures shall be recorded by an automatic recorder or recorders at the following points:

(1) In the steam chamber between the steam-water interface and the lowest container position.

(2) Near the top and the bottom of each hydrostatic water leg if the process specifies maintenance of particular temperatures in the legs. The data generated shall be recorded in appropriate batch records as indicated in §§ 212.182(d) and 212.188(a).

(h) The speed of the container conveyor chain on hydrostatic sterilizers shall be recorded continuously and such data shall be included in batch production records as indicated in § 212.188(d).

(i) If steam or mixtures of air and steam are used as the sterilizing medium, timing of the sterilization process shall not begin until the sterilizer has been vented and the processing temperature in both the chamber and the drug product solution has been achieved.

(j) If water is used as the sterilizing medium, timing of the sterilization process shall not begin until the processing temperature in the drug product solution has been achieved.

(k) Whenever a batch is subdivided for purposes of sterilization, the lot or control number shall be sufficiently specific to identify the sterilizer in which processing occurred.

Interested persons may, on or before September 29, 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. Ordinarily, 60 days is provided for comment on a proposal, although the Commissioner can reduce or extend this time period for good cause. Because of the nature and extent of the regulations being proposed, the Commissioner has concluded that 120 days should be allowed for public comment. In the absence of extraordinary circumstances, no extension of time for comment will be granted.

Dated: May 21, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76–15585 Filed 5–28–76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0100]

INJECTABLE DRUG PRODUCTS

Request for Comments and Information Regarding Small Volume Parenteral Drug Products

The Food and Drug Admjnistration is requesting comments and information regarding the applicability of proposed large volume parenteral regulations to small volume parenteral drug products; comments by August 30, 1976.

Elsewhere in this issue of the FEDERAL REGISTER the Commissioner of Food and Drugs is proposing to amend Chapter I of Title 21 of the Code of Federal Regulations by adding new Part 212. The proposal sets forth requirements for current good manufacturing practice (CGMP) in the manufacture, processing, packing, or holding of large volume parenteral (LVP) drug products for human use.

Although these proposed regulations are directed at terminally sterilized single-dose containers of 100 milliliters or more, the Commissioner considers that many of the proposed requirements for LVP drug products will eventually be applied to all terminally sterilized single-dose injectable drug products, regardless of the volume of the container. This will necessitate issuing a proposal at a future date for similar regulations for small volume injectable drug products. The Commissioner therefore invites comments at this time from all interested persons, and particularly from manufacturers of injectable drug products, regarding the applicability of the proposed Part 212 to terminally sterilized single-dose injectable drug products for human use that are less than 100 milliliters in volume.

In addition, the Commissioner invites comments and information regarding current manufacturing practices for any terminally sterilized small volume parenteral drug product, regardless of the sterilization process used.

The Commissioner requests that information submitted include brief descriptions with flow diagrams of the processes involved and descriptions of the types of drug product containers used.

Any comments or other information should be forwarded on or before August 30, 1976 to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: May 21, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-15584 Filed 5-28-76;8:45 am]

federal register

TUESDAY, JUNE 1, 1976



PART III:

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

■

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Financial Assistance to Railroads

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 258]

[Docket No. 76-01; Notice 1]

REGULATIONS GOVERNING APPLICATIONS UNDER SECTION 505(a)(1) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (the "Act") directs the Secretary of Transportation (the "Secretary" to study the rail transportation system and capital needs of the Class I railroads and creates two programs to provide financial assistance to the railroads. The Secretary has delegated his powers and duties under Title V, except those contained in section 506(c), to the Administrator of the Federal Railroad Administration (the "Administrator").

The Federal Railroad Administration is considering the adoption of regulations governing the procedures to be used in applying for financial assistance under section 505(a)(1) of the Act. Applications for assistance under that subsection for the purpose set forth in section 517 of the Act, improvement of intercity rail passenger service on lines owned by the applicant and located outside the Northeast Corridor (as defined in section 701(c) of the Act), must be filed in accordance with these regulations. Proposed regulations governing applications for assistance under section 505(a)(2) will be issued under a separate notice.

Provisions of Act Having Bearing on Title V Financial Assistance Programs

Assistance to railroads under Title V must be viewed in light of the overall purposes of the Act, in particular "the encouragement of efforts to restructure the [rail] system on a more economically justified basis . . ." and the creation of "financing mechanisms that will assure adequate rehabilitation and improvement of facilities and equipment . . ." (section 101(a)(2) and (3), respectively). In its declaration of policy with respect to this legislation, Congress gave highest priority to (1) balancing the needs of carriers, shippers, and the public, and (2) fostering competition, promoting more adequate and efficient transportation services, and increasing the attractiveness of investing in railroads and rail-service-related enterprises (Section 101(b)). To carry out these purposes and policies, Congress provided new and revised merger procedures, mandated a host of studies to ascertain the physical and financial needs of the railroads, and established two financial assistance programs, which may be used either separately or in combination, to meet those needs and carry out its purposes and policies.

Studies Required by Title V

Section 503 requires that the Administrator issue preliminary classifications and designations of main and branch lines of the Class I railroads, as so designated by the Interstate Commerce Commission, within 180 days after enactment of the Act (which would be August 3, 1976), and final classifications and designations within 360 days after enactment (which would be January 30, 1977). These classifications and designations are to be based on the level of usage of the lines and their contribution to the economic viability of both the railroad that controls them and other railroads that participate in traffic originating on them.

At the same time that the lines are being categorized, section 504 directs the Administrator to consider the railroads' needs for capital to rehabilitate and improve their facilities through 1985, and to recommend the amount and type of equity and other financing needed and the means by which the Federal share, if any, of such financing should be provided. These recommendations, which must be transmitted to Congress not later than July 29, 1977, are to be based on the Administrator's analysis of information supplied by the Class I railroads concerning their deferred maintenance and delayed capital expenditures as of December 31, 1975, their projected needs for maintenance and capital expenditures through 1985, including the projected sources of and uses for the funds required by the railroads for their projected programs, the classifications and designations of lines under section 503, and any other information the Administrator deems appropriate.

Title V Financial Assistance Programs

Title V provides two distinct financial assistance programs, the Railroad Rehabilitation and Improvement Fund (the "Rail Fund") in section 505 and the obligation guarantee fund in section 511. Section 517 authorizes the Administrator to provide financial assistance under sections 505 and 511, in an aggregate sum of up to $200 million, to any railroad or railroads for the purpose of improving intercity rail passenger service on any lines of such railroad or railroads which are located outside the Northeast Corridor (as defined in section 701(c) of the Act).

A. Section 511:

Section 511 authorizes the Administrator to guarantee and make commitments to guarantee the payment of the principal balance of, and interest on, obligations of an applicant if the proceeds of such obligations have been or will be used to acquire or to rehabilitate and improve facilities or equipment, as defined by the Act. The aggregate unpaid principal amounts of obligations that may be guaranteed may not exceed $1 billion at any one time. Applications for such guarantees must be submitted in accordance with rules prescribed by the Secretary, and they may be approved only when certain prerequisites and conditions set forth in the section have been met. Proposed regulations governing the applications under section 511 will be issued separately.

B. Section 505:

The Rail Fund in section 505 provides for purchase of a railroad's redeemable preference shares (or, in the case of a bankrupt railroad, trustee certificates) with funds made available to the Administrator from the sale to the Secretary of the Treasury of Fund anticipation notes. The Secretary of the Treasury is directed, to the extent of appropriated funds, to purchase such notes until September 30, 1978, in an amount not to exceed $600 million. The Administrator has assessed the inflationary impact that would result from purchase of $600 million of redeemable preference shares and has determined that the potential for stimulating additional inflation is slight and the danger is outweighed by the need to provide capital funds for the rail system.

To benefit from the studies of railroad needs mandated by the Act, Congress provided that, while railroads could apply, following the promulgation of regulations, for assistance for any purpose that the Administrator would approve (section 505(a)(1)), applications for facilities rehabilitation and improvement projects (section 505(a)(2)) could not be funded until after completion of the classification and designation of rail lines under section 503 (January 30, 1977).

The Administrator may approve an application under section 505 if he determines that the requested assistance is in the public interest. In making this determination the Administrator is directed to consider:

(1) The availability of funds from other sources at a cost which is reasonable under principles of prudent railroad management in light of the railroad's projected rate of return for the project to be financed;

(2) The interest of the public in supplementing other funds which may be available in order to increase the total amount of funds available for railroad financing; and

(3) The public benefits to be realized from the project to be financed in relation to public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.

The section further directs the Administrator to assign the highest priority among applications which would return equal public benefits to those that would use the funds for safety improvements and signals, including underpasses and overpasses at crossings at which injury or loss of life has occurred or is likely to occur.

In determining whether funds are available from other sources at a reasonable cost, the Administrator will compare the anticipated rate of return on

the project itself to the cost of any available capital and will evaluate the overall financial strength of the applicant in order to assess the applicant's ability to afford available capital. The Administrator will consider such factors as the timing of the anticipated flows of costs and benefits from the project compared to the schedule for repayment of other financing means as well as any terms governing repayment of capital from sources other than section 505. Other sources of funds that applicants should explore include public or private placement of funded or unfunded debt, bank loans or loans from shippers and manufacturers, advances from parent companies, sales of assets, and equity financing. An additional factor the Administrator will review in deciding whether other funds are available at a reasonable cost is whether a project could be financed if a guarantee or commitment to guarantee were extended under section 511 or if sections 505 and 511 were used in combination. Applicants must therefore examine thoroughly the possibility of financing their project in whole or in part with the assistance of a section 511 guarantee and must demonstrate that financing available in the private capital markets either cannot be obtained at a reasonable rate of interest or is otherwise inappropriate for the project. Extending obligation guarantees whenever possible will maximize public benefits first by providing financial assistance for railroad projects at the lowest cost to the public and second by applying funds available under section 505 to projects that are in the public interest but cannot be financed at a reasonable rate of interest. Only through the appropriate use of assistance from both sections 505 and 511 can the assistance available to the railroads through Title V be maximized.

In order to assure that assistance is provided in a manner that best carries out the purposes and policies of the Act, assistance will be provided for those projects that best serve to increase the ability of the rail system to provide adequate and efficient transportation services, rather than merely to preserve the status quo. Therefore, in determining the extent to which projects will provide public benefits, the highest priority will be given those projects that would facilitate or encourage consolidation or coordination of rail facilities where economically beneficial. Second in order of priority would be projects that facilitate competition in a major market where such competition is economically justified, followed by projects that would enhance the applicant's ability to provide essential passenger or freight service. In assessing the eligibility of projects, the Administrator will consider the classifications and designations made pursuant to section 503 of the Act. Additionally, consideration will be given to the financial justification for the project, its anticipated return on investment and the time period in which such return is achieved. As required by section 505, among projects having equal public benefits, priority will be given to those that also provide safety improvements and signals.

C. Projects Eligible for Assistance under Section 505:

Section 505(a)(1) of the Act permits any railroad, once regulations have been promulgated, to apply for and receive such financial assistance as may be approved by the Administrator, except that aid for facilities rehabilitation and improvements may, under section 505(a)(2), be approved only after rail lines will have been finally classified and designated under section 503.

Within this framework, it is necessary to delineate what projects constitute facilities rehabilitation and improvement in order to determine those projects that may be funded immediately. Facilities, as defined in section 501(3), comprise a railroad's fixed plant (its track, communication and power transmission systems and machinery, signals, terminal and yard facilities, shop and repair facilities, and related structures) and the property used to move rolling stock over water. Neither "rehabilitation" or "improvement" is defined in the Act, but the Senate Commerce Committee Report describes such work as "deferred maintenance, capital improvements heretofore delayed because of inadequate funds or unavailability of financing, and other capital improvements." S. Rep. No. 94-499, 94th Cong., 1st Sess. p. 23 (1975). Rehabilitation therefore is the extensive repair and replacement of materials needed to restore a facility to the physical condition necessary to provide adequate service when maintenance levels have been so low that the property has deteriorated substantially below that condition. Repairs which would result in a condition superior to the property's most recent rehabilitated or improved condition are considered to be an improvement. Rehabilitation does not include ordinary or routine maintenance performed regularly to correct critical defects and to make high priority repairs or cyclical replacement of materials needed to continue operating on track at its current track Class standard. Improvement of facilities is upgrading of fixed plant to a level better than its condition when rehabilitated. Examples of improvements include installation of welded or heavier weight rail or of other track components, a better quality of ballast, better track alignment and surface, a better signal system, upgrading a bridge structure for capacity or clearance purposes, roadbed upgrading, and replacement of shops and service facilities.

The purposes for which financial assistance would be available under section 505(a)(1) include acquisition of facilities and construction of new facilities where the construction is not an integral part of rehabilitation or improvement of an existing facility. In determining whether a new construction project will qualify for assistance under section 505(a)(1), consideration will be given both to the extent to which the new facility would increase the capacity of the applicant, rather than replacing existing capacity, and to the operational relationship of the new facility to similar existing facilities on the applicant's system. An example of a construction project that might receive financial assistance under section 505(a)(1) would be the building of a new line to connect existing lines in order to implement a joint use of tracks, or the building of new facilities when existing facilities continue to operate at their normal capacity. In administering secton 505(a)(1), the Administrator intends, consistent with the overall objectives of the Act described above and the need to await the results of studies mandated by the Act, to maximize the ability of railroads to carry out those projects that will most significantly increase the capability of applicants to meet rail transportation service needs. It is the policy of the Administrator not to provide assistance to prevent a railroad from entering into reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) except where such assistance is necessary to effectuate a merger or consolidation of facilities. The Administrator will approve financial assistance for regular maintenance of facilities only when a strong public interest justification for such financing is established in accordance with the priorities discussed above. Although purchase, rebuilding, or repair of equipment is an eligible use of section 505(a)(1) assistance, the approval of such a project would be contingent upon its being sufficiently in the public interest considering the cost of funds from other sources in light of the projected rate of return on the project.

D. Financing Agreements:

If the Administrator approves an application under section 505, the section requires that he enter into an agreement with the railroad to provide financing in such amounts and at such times as he deems necessary for the project for which assistance is sought. The section also provides that the agreement shall include terms and conditions which the Administrator deems necessary to assure that the financing is used for the purposes approved by the Administrator.

Financial assistance under section 505 to a railroad not in reorganization shall, according to section 505(d)(1), consist of the purchase of redeemable preference shares at par, as described in section 506. When a railroad applying for assistance is in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205), section 505(d)(2)(A) permits the Administrator to agree to purchase redeemable preference shares issued by the railroad as part of a reorganization plan approved by the court having jurisdiction over the railroad.

The redeemable preference shares must meet the conditions set forth in section 506. The shares must be nonvoting and must be issued at a par value of $10,000. Redemption of principal of a share must begin not earlier than the sixth nor later than the eleventh anniversary of the share's issuance, and must be completed no later than thirty years after issuance. The dividends on a share

begin to accrue on the tenth anniversary after issuance of a share and must bear a rate that, when principal and dividends are added together, returns over the life of the share at least 150 percent of the redemption payments on the share. Installments of principal and interest on the shares are to be paid annually and are to be structured so that the payments are as level as possible. Within this framework, the Administrator has discretion to set the schedule for principal redemption and the schedule and amount of dividend payments. In establishing terms on the shares he will set combinations of dividend and redemption schedules that equal the cost of money to the government. He may, in exceptional circumstances, deviate from these terms when the public benefit from the project clearly warrants a lower financial cost to the applicant.

Section 505(d)(2)(B) also permits the Administrator to provide financial assistance to railroads in reorganization by purchasing from them up to an aggregate amount of $100 million in trustee certificates issued pursuant to section 77(c)(3) of the Bankruptcy Act (11 U.S.C. 205(c)(3)). Before such certificates may be purchased, the section requires that the Administrator find in writing:

(1) That such certificates cannot otherwise be sold at a reasonable interest rate;

(2) That the project can reasonably be expected to be maintained as part of a financially self-sustaining railroad system; and

(3) That the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

PURPOSE OF PROPOSED SECTION 505(a)(1) REGULATIONS

The regulations that are being proposed under this notice establish the procedures for applications by railroads in applying for financial assistance under section 505(a)(1). They set forth in detail the form and type of information which must be submitted in support of a request for financial assistance. They do not, however, discuss other provisions of law to which a railroad may be subject if an application is approved. Applicants should note in particular that they must comply with the provisions for labor protection in section 516 of the Act.

In accordance with subsection 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and paragraph 7(g) of DOT Order No. 5610.-1B (39 FR 35234, September 30, 1974), the Administrator has determined that certain projects financed under section 505(a)(1) will have no significant environmental impact and has issued a negative declaration for those projects. The negative declaration is available to the public upon request. For projects that involve a major change in land use or a major increase in railroad related activities in an area, assessments of environmental impact must be prepared.

If an application is approved and redeemable preference shares are purchased by the Administrator, the railroad will become subject to the civil rights provisions of section 905 of the Act and to any other applicable laws.

The Federal Railroad Administration wishes to encourage public participation in the development of these regulations. Accordingly, on June 11, 1976 from 9 a.m. until 12:30 p.m., a public meeting will be held in Room 435, 800 Independence Avenue SW., Washington, D.C. at which the Administrator will discuss the interpretation and administration of section 505, and the regulations proposed in this notice. The purpose of the meeting is to explain the Federal Railroad Administration's interpretation of the Act and to answer questions on the regulations. The agenda for this meeting is as follows:

9 a.m.	Discussion of the relationship of section 505 to other provisions in the Railroad Revitalization and Regulatory Reform Act of 1976.
9:30 a.m.	Explanation of section 505. Discussion of proposed regulations for section 505.
10 a.m.	Panel: Question and Answer Session to include the following topics: Eligible projects and applicants. Factors determining approval or rejection of applications. Information required in an application. Terms of redeemable preference shares.

Any interested persons or organizations are invited to attend this meeting. Questions that interested parties wish to have answered at the meeting may be submitted in advance to the Acting Associate Administrator, Federal Assistance, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590. Other questions raised by members of the audience will also be addressed.

In addition to the public meeting, any person or organization may participate by submitting written data, views, or comments to the Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All material received on or before July 1, 1976, will be considered by the Federal Railroad Administration before taking final action on the proposed regulations. All comments received will be available for examination at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The proposals contained in this notice may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 49 of the Code of Federal Regulations by adding a new Part 258 as follows:

PART 258—REGULATIONS GOVERNING APPLICATIONS UNDER SECTION 505(a)(1) OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Sec.

258.1 Applicability.
258.3 Definitions.
258.5 Eligibility.
258.7 Form and content of application.
258.9 Required exhibits.
258.11 Preapplication and application procedure.
258.13 General instructions.
258.15 Record, audit, and examination.
258.17 Information reqeusts.
258.19 Waivers and modifications.

AUTHORITY: Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210; the Department of Transportation Act, 49 U.S.C. 1651 et seq., Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).

§ 258.1 Applicability.

This part prescribes the guidelines and procedures governing applications by railroads for financial assistance pursuant to section 505(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976. These guidelines and procedures also govern applications for assistance for the purpose set forth in section 517 of that Act, improvement of intercity rail passenger service on lines owned by the applicant and located outside the Northeast Corridor as defined in section 701(c) of that Act.

§ 258.3 Definitions.

As used in this part:

(a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, February 5, 1976).

(b) "Administrator" means the Federal Railroad Administrator, or his delegate.

(c) "Applicant" means any railroad that submits an application for financial assistance pursuant to this part.

(d) "Commission" means the Interstate Commerce Commission.

(e) "Equipment" means any type of new or rebuilt standard guage locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features, or any other type of car designated by the Administrator upon a written finding that such designation is consistent with the purposes of the Act. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar.

(f) "Facilities" means:

(1) Track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or usable for rail service operations;

(2) Communication and power transmission systems, including electronic, microwave, wireless, communication, and

automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(3) Signals, including signals and interlockers;

(4) Terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(5) Shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of equipment.

(g) "Including" means including but not limited to.

(h) "Project" means the purpose for which the applicant seeks financial assistance under this part, including acquisition or maintenance of facilities or equipment, rehabilitation or improvement of equipment, and new construction of facilities where such construction is not an integral part of rehabilitation or improvement of existing facilities.

(i) "Railroad" means a common carrier by railroad or express as defined in section 1(3) of Part I of the Interstate Commerce Act (49 U.S.C. 1(3)), and includes the National Railroad Passenger Corporation and the Alaska Railroad.

(j) "Railroad in reorganization" means a railroad being reorganized under section 77 of the Bankruptcy Act (11 U.S.C. 205).

(k) "Redeemable preference shares" means shares acquired by the Administrator under section 505(d) of the Act that conform to the requirements set forth in section 506 of the Act.

(l) "Trustee" means the trustee, or trustees if more than one trustee has been appointed, of a railroad in reorganization.

(m) "Trustee certificates" means certificates issued under section 77(c)(3) of the Bankruptcy Act (11 U.S.C. 205(c)(3)).

§ 258.5 Eligibility.

Any railroad may apply to the Administrator under section 505(a)(1) for such financial assistance as the Administrator may approve, except financial assistance for facilities rehabilitation and improvement.

§ 258.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information:

(1) Full and correct name and principal business address of the applicant;

(2) Date of applicant's incorporation, and name of the government, state, or territory under the laws of which it was incorporated or organized. If applicant is a trustee, the name and address of the reorganization court under the direction of which the applicant is acting, and the docket number of the proceeding;

(3) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(4) Detailed description of the amount and timing of financial assistance that is being sought and its purpose or purposes, including:

(A) Total amount of financing being requested, date or dates on which applicant desires to have the funds made available and schedule according to which applicant desires to redeem preference shares purchased pursuant to this part and make dividend payments thereon;

(B) Any part(s) or sub-part(s) into which the project may reasonably be divided, and the priority and schedule of financial assistance needed for such part(s) or sub-part(s);

(C) Estimated rate of return on the project calculated by determining the discount rate for which the present value of the benefits associated with and over the life of the project equals the present value of the costs associated with and over the life of the project. The detailed stream of project costs (including any increase in labor costs that will result from the labor protection arrangements required by section 516 of the Act) and project benefits used to calculated the rate of return, and a statement of the assumptions and bases for calculations behind each of the items of the detailed streams must be provided; and in estimate of the impact of the project on applicant's corporate rate of return for the year in which the project is scheduled to be completed and for each of the five years thereafter, with supporting data showing the assumptions behind and the manner in which such corporate rate of return was calculated;

(D) Evaluation of the expected impact of the project on the applicant's ability to provide essential rail services; and

(E) Statement of whether the project involves another railroad, through joint execution, coordination or otherwise; if so, description of the relative participation of applicant and such other railroad, including statement of financing arrangements of each participant, portion of the work to be performed by each, and contemplated level of usage of the equipment or facility by each participant when the work is completed;

(5) Full and complete statement, together with supporting evidence, of how public benefits to be realized from the project will justify public costs. Public benefits include providing essential freight or passenger services at safe and adequate levels, decreased costs of service through joint use of tracks or coordination between carriers, mergers, consolidations, and improved economic efficiency and productivity;

(6) Statement as to how the project will contribute to or enhance the safe operation of the railroad, considering such factors as the occupational safety and health of employees and the improvement of physical or other conditions that have caused or may cause serious injury or loss of life to the public and to users of the railroad's services;

(7) Statement as to whether applicant can secure the necessary funds, in whole or in part, from any other public or private source, including shippers, affiliated companies, or through the guarantee or commitment to guarantee obligations under section 511 of the Act, and, if so, upon what terms. If the necessary funds cannot be secured elsewhere, a statement as to the efforts which have been made to secure such funds, the reasons for the failure to secure funds elsewhere, and full details of all negotiations undertaken;

(8) Statement as to whether any railroad affiliated with applicant or any railroad which will be involved with applicant in the project has applied for, intends to apply for, or has received assistance under Title V of the Act. If such railroad has applied, intends to apply, or has received such assistance, full particulars should be given;

(9) Detailed statement as to whether the project will involve a major change in land use or will result in a major change in the intensity of railroad related activities on existing corridors or at other locations, and, if so, assessment of the impact of the project on the environment, including:

(A) Description of the environment in the area of the project before commencement of such project, together with statement of other Federal activities in the area;

(B) Statement of population and growth characteristics of area and of any population and growth assumptions made by applicant in planning the project. Such statement should use the rates of growth in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture;

(C) Statement of the project's relationship to proposed land use plans, policies, and controls of affected communities. Where the project is inconsistent with any such plans, policies, or controls, the statement should describe and explain the reasons for such inconsistency in detail;

(D) Statement of the positive and negative effects of the project on the environment, including effects on air and water, soil quality, and noise level;

(E) Statement of relationship to any applicable Air Quality Implementation Plan under the Clean Air Act (42 U.S.C. 1857);

(F) Description of any alternatives to the project;

(G) Discussion of problems and objections raised by other Federal, State or local agencies, and citizens;

(H) Statement of the relationship between local short-term uses of the environment by the project and the long-term effects on the environment; and

(I) Statement of any irreversible or irretrievable commitments of resources, including impact on public parks, recreational areas, wildlife refuges, historic sites, and similar areas referenced in section 4(f) of the Department of Transportation Act;

(10) Statement of the estimated economic impact of the project on the railroad's employees, including affected seniority districts and number of affected employees, and copy of the transmittal letter submitting such information to the representatives of applicant's employees, together with statement of the status of negotiations between applicant and representatives of its employees for labor protection arrangements required by section 516 of the Act; and

(11) Any other information which the Administrator may deem necessary concerning an application filed under this part.

(b) When applicant is a trustee and the form of proposed assistance is purchase by the Administrator of trustee certificates, the application shall provide all of the information required in paragraph (a) above, and in addition shall provide:

(1) Statement on behalf of the trustee, together with supporting evidence, that such certificates cannot otherwise be sold at a reasonable rate of interest;

(2) Full and complete statement, together with supporting evidence, demonstrating that the project can reasonably be expected to be maintained as a part of a financially self-sustaining railroad system; and

(3) Full and complete statement, together with supporting evidence, that the probable value of the assets of the railroad in the event of liquidation provides reasonable protection to the United States.

§ 258.9 Required exhibits.

There shall be filed with and made a part of each application and copy thereof the following exhibits, except that exhibits filed with and made a part of any related application filed with the Administrator under sections 505(a)(2) or 511 of the Act may be incorporated in and made part of the application filed under this Part by reference. While an application is pending, when an applicant receives actual figures for the pro forma statements required in Exhibits L, O, R, and S, it must promptly report those actual figures to the Administrator in the form required in the appropriate exhibit.

(a) *Exhibit A* (with the original application only): Copy of applicant's charter or articles of incorporation, with amendments to date, and copy of by-laws, with amendments to date, duly certified by the appropriate public officer; if applicant is a trustee, copy of duly certified order of the court authorizing the bankruptcy proceeding and appointing the trustee.

(b) *Exhibit B:* (1) Copies of all resolutions of directors authorizing the issuance of redeemable preference shares;

(2) If the charter or by-laws require approval by stockholders, copies of resolutions of stockholders authorizing such issuance, and copies of the minutes of the meetings at which those resolutions were adopted;

(3) Copies of resolutions of stockholders or directors, or duly authorized committee thereof, authenticated by a proper officer of applicant, designating by name and for that purpose the executive officer by whom the application is signed, verified, and filed on behalf of the applicant; and

(4) If applicant is a trustee, a certified copy of the order of the court having jurisdiction authorizing the sale of trustee certificates or redeemable preference shares and the filing of the application. All documents required by this exhibit must be certified by the appropriate officer of the applicant.

(c) *Exhibit C:* Opinion of counsel that he is familiar with the corporate powers of the applicant and that the applicant is authorized to make the application and to execute and deliver the redeemable preference shares. Such opinion shall also cover the priority of such shares.

(d) *Exhibit D*: Map of applicant's existing railroad with location of project indicated, if appropriate.

(e) *Exhibit E*: (1) Statement showing miles of line owned, leased, operated, and maintained;

(2) Number of locomotive units owned or leased in five year age increments, by service type (road, road-switches, and switch) and horsepower;

(3) Number of freight cars owned or leased in five year age increments, by service type and capacity; number and age of passenger cars in service owned or leased, excluding cars used for commuter service; and

(4) Top ten principal commodities carried ranked by tons.

(f) *Exhibit F*: Statement showing to the latest available date but in any event to a date no less recent than the end of the second month preceding the date of filing of the application:

(1) Maximum number of miles of track under slow orders and ratio of such track to total track miles of applicant for each month of the last three years and the current calendar year;

(2) Maximum number of locomotive units out of service during each month due to business conditions, maximum number of locomotive units out of service during each month due to mechanical defects, and ratio of aggregate of such locomotive units to total ownership monthly for each of the last three calendar years and the current calendar year; and

(3) Maximum number of freight cars out of service due to business conditions during each month and maximum number of freight cars out of service due to mechanical defects during each month, and ratio of aggregate of such cars to total number of freight cars owned by applicant monthly for each of the last three calendar years and the current calendar year.

(g) *Exhibit G*: A copy of applicant's general balance sheet as of a date no less recent than the end of the second month preceding the date of filing of the application, in account form and detail as required in schedule 200 of the Commission's annual report R–1 or R–2, as appropriate, together with the following schedules:

(1) Particulars of account 704, loans and notes receivable in form and detail as required in schedule 201 of annual report R–1 for the Class I railroads, and in similar form for the Class II railroads except that for Class II railroads loans and notes receivable that are each less than $25,000 may be combined into a single amount;

(2) Particulars of investments in affiliated companies and other investments in form and detail as required in Schedules 205 and 206 of annual report R–1, or Schedules 1001 and 1002 of R–2, as appropriate;

(3) Particulars of balances in accounts 741, Other Assets, and 743, Other Deferred Charges, in form and detail required by schedule 216 of annual report R–1 or schedule 1703 of annual report R–2, as appropriate;

(4) Particulars of loans and notes payable in form and detail required in schedule 223 of annual report R–1, or schedule 1701 of R–2, as appropriate, as well as information, as to bank loans, including the name of the bank, date and amount of the original loan, current balance, maturities, rate of interest, and security, if any; (5) Particulars of long-term debt in form and detail required in schedules 218 and 219 of annual report R–1 or schedules 670, 695, 901, 902 and 1702 of annual report R–2, as appropriate, together with a brief statement concerning each mortgage, pledge, and other lien, indicating the property or securities encumbered, the mortgage limit per mile, if any, and particulars as to priority;

(6) Particulars of balance in account 784, Other Deferred Credits, in form and detail as required in schedule 225 of annual report R–1 or schedule 1704 of annual report R–2, as appropriate; and

(7) Particulars as to capital stock in form and detail as required in schedules 228, 229, and 230 of annual report R–1 or schedule 690 in R–2, as appropriate.

(h) *Exhibit H:* Statement showing comparative balance sheets as of December 31 for each of the five years preceding the year in which the application is filed, in account form and detail as required in schedule 200 of annual report R–1 or R–2, as appropriate.

(i) *Exhibit I:* Copy of applicant's report to its stockholders, together with statement of total dividends declared and total dividends paid, for each of the past five years and for the calendar year to date and particulars as to contingent assets and liabilities if not included in such report; if aplicant is part of a holding company, the Annual Report filed pursuant to section 13 or 15(a) of the Securities Exchange Act of 1934 (Form 10–K or 12–K) as required by the Securities and Exchange Commission of applicant or of its parent company, whichever company files such form for each of the five years preceding the year in which the application is filed.

(j) *Exhibit J:* Comparative income statement for each of the twelve months preceding the date of the balance sheet in Exhibit G, in account form similar to that required in column (a) of schedule 300 of of annual report R–1 or R–2 as appropriate.

(k) *Exhibit K:* Comparative income statement showing data for each of the last five years preceding the year in which the application is filed in account form and detail similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate.

(l) *Exhibit L:* Pro forma income statement showing estimated income account for each of the months remaining in the calendar year after those months reported in the income statement in Exhibit J and for each quarter of the four subsequent years both before and after giving effect to the proceeds of the assistance requested in the application, in account form and detail similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate, together with a statement setting forth the basis for such estimates.

(m) *Exhibit M:* Comparative statement, as of a date no less recent than two months preceding the filing of the the application, of total expenditures for maintenance of (1) way and structures and (2) equipment for each of the preceding twelve months with the information separated between capital and operating expenses in accordance with the accounting rules in the Commission's Uniform System of Accounts.

(n) *Exhibit N:* Comparative statement of total expenditures for maintenance of (1) way and structures and (2) equipment for each of the five years preceding the filing of the application, with the information separated between capital and operating expenses in accordance with the accounting rules in the Commission's Uniform System of Accounts.

(o) *Exhibit O:* Pro forma comparative statement of total expenditures for maintenance of (1) way and structures and (2) equipment monthly for each of the months remaining after the statement furnished in Exhibit M of the calendar year in which the application is filed and quarterly for each of the four calendar years subsequent thereto, with the information separated between capital and operating expenses in accordance with the accounting rules in the Commission's Uniform System of Accounts both before and after giving effect to any funds requested in the application and including a statement showing the basis for such estimates.

(p) *Exhibit P:* Statement of changes in financial position for each of the last five years preceding the year in which the application is filed, in account form and detail required in schedule 309 of annual report R–1 for Class I railroads and in similar form and detail for Class II railroads.

(q) *Exhibit Q:* Statement of changes in financial position for the twelve months preceding the date of the income statement furnished in Exhibit J, in account form and detail required in schedule 309 of annual report R–1 for Class I railroads and in similar form and detail for Class II railroads.

(r) *Exhibit R:* Pro forma statement of changes in financial position for each of the four calendar years following the filing of the application, both before and after giving effect to any funds requested in the application and including a statement showing the bases for such estimates, in account form and detail as required in schedule 309 of the annual report R–1 for Class I railroads and in similar form and detail for Class II railroads.

(s) *Exhibit S:* Statement showing actual beginning cash balance, cash receipts, cash disbursements, and ending cash balance for each month of the twelve month period preceding the month in which the application is made, together with a monthly forecast, both before and after giving effect to the use of the funds requested in the application, for the balance of the current year after the application date and the year subsequent thereto.

(t) *Exhibit T:* If the application is with respect to equipment to be rehabilitated, improved, maintained, or acquired, a statement indicating number of units and in-service or out-of-service status and, if appropriate:

(1) For locomotives, service type, age, size, horsepower, name of builder, description of work, and unit cost of proposed work; and

(2) For freight cars or intermodal equipment, information as to service type (box, gondola, flat, etc.), age, capacity, description of work, and unit costs of proposed work.

Such statement shall show the total cost of the project and distribution of such cost by primary accounts of the Commission's Uniform System of Accounts separated where applicable between material and labor, the ownership of all equipment which is the subject of the project, and the dates on which work is to be commenced or completed. Direct labor and material costs and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(u) *Exhibit U:* If the application is with respect to the maintenance, acquisition, or construction of facilities, a statement showing, if applicable:

(1) Track standard under which each line on which maintenance is proposed has been generally operating and the reasons therefor, and the track standards and signal requirements necessary to provide safe, essential rail services;

(2) Date work is proposed to be commenced and completed; and

(3) Types and quantities of work items, unit costs, and total cost of project and distribution of such total cost by primary accounts of the Commission's Uniform System of Accounts, separated where applicable between material and labor. Direct labor and material costs and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(v) *Exhibit V:* List and description of the portion(s), if any, of the project being or to be performed by outside contractor(s).

NOTE: The account forms referred to in the exhibits are those of the Commission's Uniform System of Accounts for Railroad Companies in use on February 15, 1976. However, the information required in any of the exhibits shall give effect to any modification of the Commission's Uniform System of Accounts for Railroad Companies in effect on the date of filing the application.

§ 258.11 Preapplication and application procedure.

(a) When a railroad has developed plans for a project for which it may wish to seek assistance under this part, that railroad shall notify the Associate Administrator for Federal Assistance of the Federal Railroad Administration at the address shown in paragraph (b)(3) of this section. The Associate Administrator will then schedule a meeting at which the railroad will present to representatives of the Federal Railroad Administration the project and discuss with them information which must be submitted in the application and the type of terms and conditions and financing documents that will be utilized in connection with financial assistance provided under section 505(a)(1).

(b) The following procedure shall govern the execution and filing of the application:

(1) The original application shall bear the date of execution and be signed with ink by or on behalf of the applicant and shall bear the corporate seal. Execution shall be by the applicant's president or other duly authorized officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the applicant shall also sign a certificate in form as follows:

---------- certifies that he
(Name of official)
is the ---------- of the
(Title of official)
----------; that he is au-
(Name of railroad)

thorized on the part of said applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the applicant, in order to make this application and issue the redeemable preference shares has been given; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the ----------;
(Name of railroad)

that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

(Name of official)

(Date)

(2) There shall be made a part of the original application the following certificate by the Chief Financial Officer of the applicant:

_____ certifies that he
(Name of officer)
is _____ of
(Title of officer)
_____; that he has
(Name of railroad applicant)

supervision over the books of account and other financial records of the railroad applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting and other orders of the Interstate Commerce Commission; that such accounts are adequate to assure that proceeds from the financing being undertaken are used solely and specifically for the purposes authorized; that he has examined the financial statements and supporting schedules included in this application and to the best of his knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the railroad applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the railroad applicant.

_____
(Name of official)

_____
(Date)

(3) The original application and supporting papers, and ten (10) copies thereof, shall be filed with the Associate Administrator for Federal Assistance of the Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

§ 258.13 General instructions.

(a) If the application is approved by the Administrator, the following documents must be deposited with the Administrator before the transaction is closed:

(1) Certified copies of resolutions of the board of directors, and where necessary of the executive committee of the applicant, and of the stockholders, and certified copies of the minutes of the meetings at which those resolutions were adopted, authorizing the execution of a financing agreement with the Administrator and delivery of such redeemable preference shares as are incident to the application thereof, in conformity with such terms as may be prescribed by the Administrator, and authorizing the designated officer to receive and give a receipt for the proceeds from the purchase of the redeemable preference shares;

(2) Certified statement by the applicant that it has complied with the provisions of section 516 of the Act with respect to employee protection;

(3) Certified copy of the most recent detailed report by applicant's public accounting firm; and

(4) In respect of assistance to a trustee, certified copies of the court orders and decrees authorizing him to execute and deliver the trustee certificates or redeemable preference shares.

(b) After the documents required in paragraph (a) of this section have been deposited with the Administrator, the Administrator will enter into an agreement with the applicant to provide financing at such times and in such amounts as the Administrator deems necessary to meet the reasonable cost of the project. Such agreement shall contain such terms and conditions as the Administrator deems necessary or appropriate to assure that the financing will be used only in the manner, and for the purposes, approved by the Administrator, including a requirement that funds received from the sale of redeemable preference shares be placed in and disbursed from a separate account.

§ 258.15 Record, audit, and examination.

(a) Each recipient of financial assistance under this part, whether in the form of redeemable preference shares, trustee certificates, contracts, subcontracts, or other arrangements, shall keep such records as the Administrator and the Comptroller General shall prescribe, including records that fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any accounts, books, documents, papers, reports, files and records of such receipts which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the redeemable preference shares, trustee certificates, contracts, or other arrangements referred to in paragraph (a). Representatives of the Administrator or the Comptroller General shall be afforded full facilities for verifying the transactions.

§ 258.17 Access to information.

If an applicant desires that any information submitted in an application or supplement thereto not be released by the Administrator upon request from a member of the public, the applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential as permitted by law.

§ 258.19 Waiver and modification.

The Administrator, upon good cause shown, may waive or modify any requirement of this part not required by law, or make any additional requirements he deems necessary.

I certify that inflationary impact of proposed regulations implementing section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 has been evaluated in accordance with Executive Order 11821 of November 21, 1974 and Department of Transportation Order 2050.4 of February 2, 1976.

Dated: May 26, 1976.

ASAPH H. HALL,
Administrator,
Federal Railroad Administration.

[FR Doc.76-15876 Filed 5-28-76;8:45 am]

[49 CFR Part 260]

[Docket No. 76-02; Notice 1]

REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (the "Act") creates two programs under which the Secretary of Transportation (the "Secretary") may provide financial assistance to railroads, one through the purchase of redeemable preference shares issued by railroads (section 505) and the other through the guarantee of obligations (section 511). The Secretary has delegated his powers and duties under Title V, except those powers contained in section 506(c), to the Administrator of the Federal Railroad Administration (the "Administrator").

The Administrator is publishing proposed regulations concerning procedures to be used by railroads in applying for financial assistance under section 505(a)(1) of the Act, accompanied by a discussion of the manner in which the program will be administered. Regulations governing procedures for applications under section 505(a)(2) will be published under a separate notice.

Pursuant to the provisions of section 511(a), the Administrator is now considering the adoption of regulations for procedures to be used in applying for a commitment to guarantee and guarantee (hereinafter both a commitment to and a guarantee are referred to jointly as a "guarantee") of obligations under section 511 of the Act. These regulations will also govern applications under section 511 for guarantee of obligations of the Consolidated Rail Corporation ("ConRail") for electrification of high-density mainline routes, as provided in section 211(i) of the Regional Rail Reorganization Act of 1973, as amended ("RRRA"), and for guarantee of obligations to improve intercity rail passenger service on lines owned by the applicant and located outside the Northeast Corridor (defined in section 701(c) of the Act), as provided in section 517 of the Act. Applications for the purposes set forth in section 517 may also be filed under section 505 of the Act. The Administrator has determined that the obligation guarantee program created by section 511 is not a major proposal under Executive Order 11821, November 27,

1974, or Department of Transportation Order 20504, February 2, 1976, requiring an inflationary impact evaluation.

The Administrator is also considering the adoption of standards under section 511(i) governing the maintenance of facilities by recipients of guarantees of obligations.

PROVISIONS OF SECTION 511

A. *Obligations That May Be Guaranteed.*

Under section 511, the Administrator can guarantee the payment of the principal balance of, and any interest on, an obligation of an applicant prior to, on, or after the date of execution or disbursement of such obligation if the proceeds of such obligation shall be or have been used to acquire or to rehabilitate and improve facilities or equipment used in rail services. Section 511(a) provides for the Administrator to grant applications for such guarantees in whole or in part, if he determines that the obligation is eligible for such guarantee. Therefore, the prerequisites that must be met under section 511(h) (see B below) and the conditions mandated by section 511(j) (see D below) are of primary importance.

Neither "rehabilitation" nor "improvement" is defined in the Act, but the Senate Commerce Committee Report describes such work as "deferred maintenance, capital improvements heretofore delayed because of inadequate funds or unavailability of financing, and other capital improvements." S. Rep. No. 94-499, 94th Cong., 1st Sess., 23 (1975). Rehabilitation therefore is the extensive repair and replacement of materials needed to restore a facility to the physical condition necessary to provide adequate service when maintenance levels have been so low that the property has deteriorated substantially below that condition. Repairs which would result in a condition superior to the property's most recent rehabilitated or improved condition are considered to be an improvement. Rehabilitation does not include ordinary or routine maintenance performed regularly to correct critical defects and to make high priority repairs or cyclical replacement of materials needed to continue operating on track at its current track Class standard. Improvement of facilities is upgrading of fixed plant to a level better than its condition would be when merely rehabilitated. Such projects include installation of welded or heavier weight rail or of other track components, a better quality of ballast, better track alignment and surface, a better signal system, upgrading a bridge structure for capacity or clearance purposes, roadbed upgrading, and replacement of shops and service facilities.

Section 501(6) defines an obligation as a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation or improvement. Because this definition specifically mentions among eligible obligations those that are issued to finance or refinance construction, guarantees may be extended for such obligations.

"Applicant" is defined by section 501(1) to mean any railroad or other person (including a governmental entity) which submits an application to the Administrator for the guarantee of an obligation under which it is an obligor (the debtor under the obligation and any successor or assignee of such obligor who is approved by the Administrator). Under this definition of "applicant", State and local governments may apply for and receive guarantees. However, it will be the policy of the Administrator not to guarantee tax-exempt obligations unless the applicant can demonstrate compelling reasons why such a guarantee should be extended.

B. *Prerequisites to Guarantees.*

Section 511(h) lists as prerequisites to any guarantee six findings the Administrator must make in writing:

(1) That an obligation for equipment acquisition, rehabilitation, or improvement is secured by such equipment;

(2) That payment of the obligation is, by the terms of such obligation, required to be made within 25 years from the date of its execution;

(3) That the financing is justified by present and probable future demand for rail services to be rendered by the applicant and will serve to meet demonstrable rail service needs and to provide shippers with improved service;

(4) That the applicant has given reasonable assurances that the facilities or equipment being acquired, rehabilitated, or improved with the proceeds of the obligation will be economically and efficiently utilized;

(5) That the probable value of any equipment or facilities to be improved, rehabilitated or acquired is sufficient to provide the United States with reasonable security and protection in the event of default by the obligor, in the case of repossession by the holder of the obligation, or in the case of possession or purchase by the Administrator; and

(6) That the transaction will result in an improvement in the ability of any affected railroad to transport freight or passengers.

In order to be considered, an application must contain sufficient information to enable the Administrator to make these section 511(h) findings.

C. *Section 115(i) Standards.*

Section 511(i) requires that recipients of guarantees shall, consistent with their capital resources, maintain their facilities in accordance with standards to be issued by the Administrator. The purpose of these standards is twofold: first, to protect the security interest of the United States for the time the obligation is outstanding by assuring that the value of the collateral is not reduced; and second, to insure that the facilities for which the Administrator has supplied financing are maintained in a condition in which they can meet passengers' or shippers' demand for the recipient's rail service. Therefore, the proposed standards are designed to prevent deferred maintenance on the facilities which are the subject of a guarantee. The Administrator may waive the standards if a guarantee recipient demonstrates in writing that it does not have sufficient capital resources to meet the standards or establishes that changed circumstances may justify a waiver.

These standards are designed not to duplicate other laws or regulations to which recipients of guarantees may be subject. Although these standards are based in certain respects on the safety regulations enforced by the Federal Railroad Administration, the proposed standards are separate from the safety regulations.

D. *Section 511(j) Conditions.*

Section 511(j) requires that before a guarantee of an obligation may be approved the obligor must agree in writing that so long as any principal or interest is due and payable on such obligation:

(1) there will not be any increase in discretionary dividend payments over the average ratio which such payments bore to earnings for the applicable fiscal period during the five years preceding such proposed increase without the prior approval of the Administrator;

(2) the obligor will not use any assets or revenues (except cash) related to or derived from railroad operations in non-rail enterprises without the prior approval of the Administrator; and

(3) the obligor will take all reasonable and practicable steps possible to improve the equitable distribution and efficient and expeditious use of all equipment and facilities to improve rail service in accordance with guidelines established by the Administrator.

Approval of an increase in dividend payments or use of assets and revenues related to or derived from railroad operations in non-rail enterprises under paragraphs (1) and (2), respectively, may be granted if the Administrator makes a written finding, after a public hearing, that such increase in dividends or use of assets or revenues will not materially affect the ability of the obligor to comply with the requirements of section 511. The Administrator will, at a later date, publish a statement of requirements necessary for approval of such an increase in dividends or use of assets. The guidelines governing distribution and use of equipment and facilities referred to in paragraph (3) will be placed in the terms and conditions of guarantee agreements.

E. *Charges to be Assessed and Rate of Interest.*

The Administrator will, as provided in section 511(*l*), charge an amount he deems reasonable for the investigation of any application, for appraisal of the value of the equipment or facilities involved, and for making determinations and findings necessary under this part. The application must contain a certification that the applicant will pay such charges as the Administrator may assess. Such charges may not aggregate more than one half of one percent of the

principal amount of the obligation for which a guarantee is sought. They will be assessed periodically as the Administrator incurs expenses in reviewing the application.

In addition, section 511(m) provides that the Administrator shall assess and collect from the obligor an annual premium charge on each obligation guaranteed in an amount not to exceed an annual rate of one percent on the unpaid principal balance of such obligation at the time payment is due. Payment is due initially when the obligation is guaranteed, and, thereafter, on the aniiversary date of such guarantee.

Section 511(f) provides that the rate of interest (exclusive of premium charges and service fees) which shall be paid on the unpaid principal baalnce of each obligation guaranteed shall not exceed an annual percentage rate which the Administrator determines to be reasonable, taking into consideration the prevailing interest rates for similar obligations in the private market.

F. *Financing Agreements.*

If the Administrator approves an application under section 511, the section requires that he agree to guarantee an obligation under such terms and conditions and pursuant to such regulations as he deems appropriate, consistent with the purposes of Title V. Guarantee agreements will, among other things, require that the recipient of the guarantee establish and adhere to a normalized maintenance program for the facilities or equipment that is the subject of the obligation. Guarantees must be extended in accordance with the provisions of sections 511 through 513 of Title V and with such rules as the Administrator may deem necessary to protect the interests of the United States.

Section 511(d) permits the Administrator to approve any modification of any provision of a guarantee of an obligation, including the rate of interest, payment schedule of interest or principal, security, or any other term, if he finds in writing that such modification is equitable and in the overall best interests of the United States under Title V and that the holder of the obligation consents to such modification.

G. *Amount of Obligations Which May Be Guaranteed*

The aggregate unpaid principal amounts of obligations which the Administrator may guarantee may not exceed $1 billion at any one time, of which not to exceed $150 million may be guaranteed to finance improvements in the Northeast Corridor. Section 606 of the Act provides that within the $1 billion of guarantee authority up to $200 million in obligations of ConRail may be guaranteed for the electrification of high-density mainline routes upon request by ConRail pursuant to section 211 (i) of the RRRA, when such electrification will return operating and financial benefits to ConRail and will facilitate compatibility with existing or renewed electrification systems. Finally, the Administrator is authorized by section 517 to provide financial assistance, in the aggregate sum of up to $200 million, through the financial assistance provisions of and within the authorizations of Title V, either under section 505 or section 511, to any railroad for the purpose of improving intercity rail passenger service on any lines of such railroad which are located outside of the Northeast Corridor, as defined in 701(c) of the Act.

PURPOSE OF PROPOSED SECTION 511 REGULATIONS

The regulations proposed under this notice as subpart A of part 260 of the Code of Federal Regulations establish the procedures governing applications for guarantees under section 511. They set forth in detail the form and type of information which must be submitted in an application and explain the process the Federal Railroad Administration will go through in handling applications. In addition, the requirements of the National Environmental Policy Act of 1969 have been observed in the regulations. The Federal Railroad Administrator has issued a negative declaration stating that most projects being financed by obligations guaranteed under section 511 have no significant environmental impact, but an assessment of the environmental impact of the project must be prepared for projects that involve a major change in land use or a major increase in railroad related activities on an existing corridor or at another location.

These procedural regulations do not address any legal requirements other than those which directly concern the application process. In this regard, applicants should note that the provisions in section 516 of the Act relating to labor protection must be adhered to. Furthermore, if a guarantee or commitment to guarantee an obligation is extended, the recipient will become subject to the civil rights provisions of section 905 of the Act and to any other applicable Federal laws.

The regulations proposed under this notice as subpart B of part 260 of the Code of Federal Regulations establish the standards under section 511(i) governing the maintenance of facilities by recipients of guarantees of obligations.

The Administrator wishes to encourage the broadest public participation in connection with the development of these regulations. Accordingly, on June 11, 1976 in Room 435, at 800 Independence Avenue, SW., Washington, D.C., from 2 p.m. until 5 p.m., a public meeting will be held at which the Administrator and his staff will discuss and answer questions concerning the proposed regulations for section 511. The agenda for the meeting will be:

2 p.m.	Discussion of section 511 and its relationship to other provisions of the Act.
2:30 p.m.	Discussion of proposed regulations for application procedures under section 511 and for maintenance standards under section 511(i).
3 p.m.	Panel: Question and Answer Session, with discussion of the following topics: Eligibility of applicants and projects. Requirements for security. Conditions imposed by section 511(j). Proposed maintenance standards.

Questions that interested persons wish to have answered at the meeting may be submitted in advance to the Acting Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590. Other issues raised by questions from the audience will also be addressed. Any interested persons or organizations are invited to attend.

Any person or organization may also participate by submitting written data, views, or comments to the Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All material received on or before July 1, 1976, will be considered by the Federal Railroad Administration before taking final action on the proposed regulations. All comments received will be available for examination at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The proposals contained in this notice may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 49 of the Code of Federal Regulations by adding a new part 260 as follows:

PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations

Sec.
260.1 Applicability.
260.3 Definitions.
260.5 Eligibility.
260.7 Form and content of application.
260.9 Required exhibits.
260.11 Preapplication and application procedure.
260.13 General instructions.
260.15 Information requests.
260.17 Records, audits, and examinations.
260.19 Waivers and modifications.

Subpart B—Standards for Maintenance of Facilities by Recipients of Obligation Guarantees

260.21 Applicability.
260.23 Definitions.
260.25 Standards.
260.27 Inspection and reporting.
260.29 Waiver.
260.31 Impact on other laws.
260.33 Penalties.

AUTHORITY: Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210; The Department of Transportation Act, 49 U.S.C. 1651 et seq., Regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(u).

Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations

§ 260.1 Applicability.

This subpart prescribes the procedures governing applications for a commitment to guarantee or a guarantee of the payment of the principal balance of, and any interest on, an obligation of an applicant under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("the Act"). Applications for a commitment to guarantee or a guarantee of obligations of the Consolidated Rail Corporation for electrification of high-density mainline routes must be filed in accordance with these procedures, as provided in section 211(i) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721). These procedures also govern applications for a commitment to guarantee or guarantee of obligations incurred for the purpose set forth in section 517 of the Act, improvement of intercity rail passenger service on lines of the applicant located outside the Northeast Corridor (defined in section 701(c) of the Act).

§ 260.3 Definitions.

As used in this part:

(a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, February 5, 1976).

(b) "Administrator" means the Federal Railroad Administrator, or his delegate.

(c) "Applicant" means any railroad, or other person (including a governmental entity) that submits an application to the Administrator for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation.

(d) "Commission" means the Interstate Commerce Commission.

(e) "Equipment" means any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features, or any other type of car designated by the Administrator upon a written finding that such designation is consistent with the purposes of the Act. General service railroad freight car includes a boxcar, gondola, open-top or covered hopper car, and flatcar.

(f) "Facilities" means:

(1) Track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or usable for rail service operations;

(2) Communication and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(3) Signals, including signals and interlockers;

(4) Terminal or yard facilities, including trailer-on-flat-car and container-on-flat-car terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(5) Shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of equipment.

(g) "Including" means including but not limited to.

(h) "Holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trusteee for such an obligee or creditor pursuant to an agreement to which the obligor is a part, the term refers to such bank or trust company.

(i) "Obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation, or improvement.

(j) "Obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Administrator.

(k) "Project" means the use of the proceeds of the obligation for which a guarantee or guarantee commitment is sought.

(l) "Railroad" means a common carrier by railroad or express as defined in section 1(3) of Part I of the Interstate Commerce Act (49 U.S.C. 1(3)), including the National Railroad Passenger Corporation and the Alaska Railroad.

(m) "Trustee" means the trustee, or trustees if more than one trustee has been appointed, of an applicant in bankruptcy.

§ 260.5 Eligibility.

Under section 511 the Administrator may guarantee and make commitments to guarantee the payment of the principal balance of, and any interest on, an obligation of any applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such obligation shall be or have been used to acquire or to rehabilitate and improve facilities or equipment.

§ 260.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information:

(1) Applicant's full and correct name and principal business address;

(2) Date of applicant's incorporation, or organization if not a corporation, and name of the government, state, or territory under the laws of which it was incorporated or organized. If applicant is a trustee, the name and address of the bankruptcy court under the direction of which applicant is acting, and the docket number of the proceeding. If applicant is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished;

(3) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(4) Certified copy of proposed or executed obligation agreement, including any related agreements or other documents, and detailed description of the obligation and of the series or issue of which the obligation is a part, including—

(A) Total amount of the obligation;

(B) Detailed description of the project, including—

(i) Estimated timing of the expenditure of the proceeds of the obligation;

(ii) Any part(s) or sub-part(s) into which the project may reasonably be divided, the priority and schedule of expenditure for such part(s) or subpart(s); and

(iii) Statement of whether the project involves another railroad, through joint execution, coordination, or otherwise; if so, description of the relative participation of applicant and such other railroad, including statement of financing arrangements of each participant, portion of the work to be performed by each participant, and contemplated level of usage of the equipment or facility by each participant when the work is completed;

(C) Effective date;

(D) Schedule for repayment of principal;

(E) Description of the interest in facilities or equipment to be financed or refinanced by the obligation for which a guarantee is sought that would be pledged to the Administrator, and applicant's opinion of the value of this security interest and the basis for such opinion; and

(F) Where the obligation for which a guarantee is sought is outstanding, actual effective rate of interest; or where the applicant has discussed with a potential holder the terms of the obligation, the proposed effective rate of interest;

(5) Statement, in summary form, showing financial obligations to or claims against the United States, if any, by applicant or any affiliated entity as of the date of the application, including:

(A) Balance on any direct loans or loans under which the United States is guarantor;

(B) Status of any claims under litigation; and

(C) Any other debits or credits existing between the applicant and the United States, showing the department or agency involved in such loans, claims and other debts;

(6) An analysis that includes:

(A) Statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand of rail services, that the financing is justified by present and future demand for rail services, will meet

existing needs for such services, and will provide shippers with improved service;

(B) Description of the impact of the financing upon the projected traffic to be originated, terminated, or carried by the obligor for at least the five years immediately following completion of the project: and

(C) Description of any other benefit which would accrue to the applicant from the proceeds of the obligation;

(7) Statement, together with supporting evidence, that the facilities or equipment being acquired, rehabilitated or improved will be efficiently and economically utilized, including:

(A) Estimated rate of return on the project calculated by determining the discount rate for which the present value of the benefits associated with and over the life of the project equals the present value of the costs associated with and over the life of the project. The detailed stream of project costs (including any increase in labor costs that will result from the labor protection arrangements required by section 516 of the Act) and project benefits used to calculate the rate of return, and a statement of the assumptions and bases for calculations behind each of the items of the detailed streams must be provided; and estimate of the impact of the project on the corporate rate of return of the affected railroad for the year in which the project is scheduled to be completed and for each of the five years thereafter, with supporting data showing the assumptions behind and the manner in which such corporate rate of return was calculated;

(B) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and

(C) Documentation of any other improvements in service including service reliability between origin and destination point pairs and reduction in time from load to load car cycle by car type;

(8) Statement, together with supporting evidence, that the transaction will improve the ability of affected railroads to transport passengers or freight;

(9) Statement of applicant's maintenance program for its entire rail system and planned maintenance program for the equipment or facilities financed by the proceeds of the obligation;

(10) Certified statement that applicant will pay the Administrator whatever investigation fees the Administrator assesses;

(11) With respect to each existing holder or proposed prospective holder, a statement as to:

(A) Full and correct name and principal business address;

(B) Reference to applicable provisions of law and the charter or other governing instruments conferring authority on the holder to accept the obligation;

(C) Brief statement of the circumstances and negotiations leading to the agreement by the holder to take the proposed obligation;

(D) Brief statement of the nature and extent of any affiliation or business relationship between the existing or prospective holder and any of its directors, partners, or principal executive officers, on the one hand, and, on the other, the applicant and any of its directors, partners, or principal executive officers, or any person or persons whose name is required to be furnished under subparagraph (E) of this paragraph; and

(E) Full and complete statement of all sums to be given by the holder in connection with the proposed obligation including:

(i) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the holder or any of its directors, partners, or officers;

(ii) Amount of the cash payment, or the nature and value of other consideration; and

(iii) Any condition upon the obligation of the obligee to make such payment;

(12) Detailed statement as to whether any entity affiliated with applicant or any railroad which will be a participant with applicant in the project or with which this project will be coordinated has applied for, intends to apply for, or has received assistance under Title V of the Act;

(13) Detailed statement as to whether the project will, directly or indirectly, cause a major change in land use or a major change in the intensity of railroad related activities on existing corridors or at other locations, and, if so, an assessment of the impact of such use on the environment, including:

(A) Description of the environment in the area of the project before commencement of the project, together with statement of other Federal activities in the area;

(B) Statement of population and growth characteristics of the area and of any population and growth assumptions made by applicant in planning the project. Such statement should use the rates of growth in the projection complied for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture;

(C) Statement of the relationship of the project to proposed land use plans, policies, and controls of affected com- and explain the reasons for such inconsistent with any such plans, policies, or controls, the statement should describe and explain the reasons fo rsuch inconsistency in detail;

(D) Statement of the positive and negative effects of the project on the environment, including effects on air and water, soil quality, and noise level;

(E) Statement of the relationship to any applicable Air Quality Implementation Plan under the Clean Air Act (42 U.S.C. 1857);

(F) Description of any alternatives to the project;

(G) Discussion of problems and objections raised by other Federal, State or local agencies, and citizens;

(H) Statement of the relationship between local short-term uses of the environment by the project and the long-term effects on the environment; and

(I) Statement of any irreversible or irretrievable commitments of natural resources, including impact on public parks, recreational areas, wildlife refuges, historic sites, and similar areas referenced in section 4(f) of the Department of Transportation Act;

(14) Statement of the estimated economic impact of the use of the proceeds on the railroad's employees, including affected seniority districts and number of affected employees, and copy of transmittal letter submitting such information to the representatives of applicant's employees, together with statement of the status of negotiations between applicant and representatives of its employees for labor protection arrangements required by section 516 of the Act; and

(15) Any other information which the Administrator may deem necessary or useful concerning an application filed under this part.

(b) When applicant is a trustee, the application shall provide all of the information required in paragraph (a) above, and in addition shall provide a full and complete statement, together with supporting evidence, demonstrating that applicant can reasonably be expected to become self-sustaining within a reasonable period of time.

§ 260.9 Required exhibits.

There shall be filed with and made a part of each application and copy thereof the following exhibits, except that exhibits filed with and made a part of any related application filed with the Administrator under section 505(a)(1) or 505(a)(2) of the Act may, where timely, be incorporated in and made part of the application filed under this part by reference. While the application is pending, when applicant receives actual figures for the pro forma statements required in Exhibits L, O, R, and S, it must report the actual figures to the Administrator in the form required in the appropriate exhibit.

(a) *Exhibit A* (with the original application only): Copy of applicant's charter or articles of incorporation with amendments to date, and copy of by-laws with amendments to date; if applicant is not a corporation, copy of articles of agreement or association, or other agreement, evidencing organization; if applicant is a trustee, copy of order of the court appointing applicant as trustee. All documents required in this exhibit shall be duly certified by the appropriate public officer.

(b) *Exhibit B:*

(1) Copies of all resolutions of directors authorizing issuance of the obligation;

(2) If applicant's charter or by-laws require approval by stockholders, copies of resolutions of stockholders authorizing such issuance and copies of the minutes of the meetings at which those resolutions were adopted;

(3) Copies of resolutions of stockholders or directors, or duly authorized committee thereof, authenticated by a proper officer of applicant, designating by name and for that purpose the executive officer by whom the application is signed, verified, and filed on behalf of the applicant;

(4) If applicant is not a corporation, documentary evidence showing authorization of the obligation and designation of the individual signing, verifying, and filing the application on behalf of the applicant;

(5) If applicant is a trustee, certified copy of the order of the court having jurisdiction, authorizing the filing of the application and sale of the obligation; and

(6) If applicant is a state or local public body or agency thereof, copy of resolution of the appropriate body together with a copy of the applicable laws and regulations permitting applicant to incur such obligation.

All documents required to be submitted in this exhibit shall be certified by the appropriate official of applicant.

(c) *Exhibit C:* Opinion of counsel that he is familiar with the corporate or other organizational powers of the applicant and that the applicant is authorized to make the application, to incur the obligation, and to enter into an agreement with the Administrator for the commitment to guarantee or the guarantee of such obligation.

(d) *Exhibit D:* Map of affected railroad market to show the location of the project, if appropriate.

(e) *Exhibit E:* (1) Statement showing miles of line owned, leased, operated, and maintained;

(2) Number of locomotive units owned or leased in five year age increments, by service type (road, road-switches, and switch) and horsepower;

(3) Number of freight cars owned or leased in five year age increments, by service type and capacity; number and age of passenger cars in service owned or leased, excluding cars used for commuter service; and

(4) Top ten principal commodities carried ranked by tons.

(f) *Exhibit F:* Statement showing to the latest available date but in any event to a date no less recent than the end of the second month preceding the date of filing of the application:

(1) Maximum number of miles of track under slow orders and ratio of such track to total track miles of applicant for each month of the last three years and the current calendar year;

(2) Maximum number of locomotive units out of service during each month due to business conditions, maximum number of locomotive units out of service during each month due to mechanical defects, and ratio of aggregate of such locomotive units to total ownership monthly for each of the last three calendar years and the current calendar year; and

(3) Maximum number of freight cars out of service due to business conditions during each month and maximum number of freight cars out of service due to mechanical defects during each month, and ratio of aggregate of such cars to total number of freight cars owned by applicant monthly for each of the last three calendar years and the current calendar year.

(g) Exhibit G: Copy of applicant's general balance sheet as of a date no less recent than the end of the second month preceding the date of filing of the application, in account form and detail as required in schedule 200 of the Commission's annual report R–1 or R–2, as appropriate, together with the following schedules:

(1) Particulars of account 704, loans and notes receivable, in form and detail as required in schedule 201 of annual report R–1 for Class I railroads, and in similar form for the Class II railroads except that for Class II railroads items amounting to less than $25,000 each may be combined into a single amount;

(2) Particulars of investments in affiliated companies and other investments, in form and detail as required in schedules 205 and 206 of annual report R–1, or schedules 1001 and 1002 of R–2, as appropriate;

(3) Particulars of balance in accounts 741, Other Assets, and 743, Other Deferred Charges, in form and detail as required in schedule 216 of annual report R–1, or schedule 1703 of R–2, as appropriate;

(4) Particulars of loans and notes payable in form and detail required in schedule 223 of annual report R–1, or schedule 1701 of R–2, as appropriate, as well as information as to bank loans, including the name of the bank, date and amount of the original loan, current balance, maturities, rate of interest, and security, if any;

(5) Particulars of long-term debt in form and detail required in schedules 218 and 219 of annual report R–1 or schedules 670, 695, 901, 902, and 1702 of annual report R–2, as appropriate, together with a brief statement concerning each mortgage, pledge, and other lien, indicating the property or securities encumbered, the mortgage limit per mile, if any, particulars as to priority, particulars as to after-acquired clauses, and whether such mortgage is "open-end";

(6) Particulars of balance in account 784, Other Deferred Credits, in form and detail as required in schedule 225 of annual report R–1, or schedule 1704 of annual report R–2, as appropriate; and

(7) Particulars as to capital stock in form and detail as required in schedules 228, 229, and 230 of annual report R–1 or schedule 690 in R–2, as appropriate.

(h) *Exhibit H:* Statement showing comparative balance sheets as of December 31 for each of the five years preceding the year in which the application is filed in account form and detail as required in schedule 200 of the annual report R–1 or R–2, as appropriate.

(i) *Exhibit I:* If applicant is a corporation, copy of applicant's report to its stockholders for each of the five years preceding the year in which the application is filed, together with statement of total dividends declared and total dividends paid for each of these years and for the calendar year to date and particulars as to contingent assets and liabilities if not included in such report; if applicant is part of a holding company, the Annual Report filed pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (Form 10–K or 12–K) as required by the Securities and Exchange Commission of applicant or of its parent company, whichever company files such Form, for each of the five years preceding the year in which the application is filed.

(j) *Exhibit J:* Comparative income statement for each of the twelve months preceding the date of the balance sheet in Exhibit G, in account form similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate.

(k) *Exhibit K:* Comparative income statement for each of the last five calendar years preceding the year in which the application is filed in account form and detail similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate.

(l) *Exhibit L:* Pro forma income statement showing estimated income account for each of the months remaining in the calendar year after those months reported in the income statement in Exhibit J and for each quarter of the four subsequent years both before and after giving effect to the proceeds of the obligation for which a guarantee is requested in account form and detail similar to that required in column (a) of schedule 300 of annual report R–1 or R–2, as appropriate, together with a statement setting forth the basis for such estimates.

(m) *Exhibit M:* Comparative statement, as of the date of the balance sheet in Exhibit G, of total expenditures for maintenance of (1) way and structures and (2) equipment for each of the preceding twelve months with the information separated between capital and operating expenses in accordance with the accounting rules of the Commission's Uniform System of Accounts.

(n) *Exhibit N:* Comparative statement of total expenditures of maintenance of (1) way and structures and (2) equipment for each of the five years preceding the filing of the application, with the information separated between capital and operating expenses in accordance with the accounting rules of the Commission's Uniform System of Accounts.

(o) *Exhibit O:* Pro forma comparative statement of total expenditures for maintenance of (1) way and structures and (2) equipment for each of the remaining months of the calendar year in which the application is filed, and quarterly for each of the four calendar years subsequent thereto, with the information separated between capital and operating expenses in accordance with the accounting rules of the Commission's Uniform System of Accounts, both before and after giving effect to the proceeds of the obligation for which a guarantee is requested and including a statement showing the basis for such estimates.

(p) *Exhibit P:* Statement of changes in financial position for each of the last

five years preceding the year in which the application is filed, in form and detail required in schedule 309 of annual report R–1 for Class I railroads and in similar form and detail for Class II railroads.

(q) *Exhibit Q:* Statement of changes in financial position for the twelve months preceding the date of the balance sheet furnished in Exhibit G in account form and detail required in schedule 309 of annual report R–1 for Class I railroads, and in similar form and detail for Class II railroads.

(r) *Exhibit R:* Pro forma statement of changes in financial position for the calendar year in which the application is filed and for each of the four calendar years following the filing of the application, both before and after giving effect to the proceeds of the obligation for which a guarantee is requested and including a statement showing the basis for such estimates, in account form and detail as required in schedule 309 of the annual report R–1 for Class I railroads, and in similar form and detail for Class II railroads.

(s) *Exhibit S:* Statement showing actual beginning cash balance, cash receipts, cash disbursements, and ending cash balance for each month of the twelve-month period preceding the month in which the application is filed together with a monthly forecast, both before and after giving effect to the proceeds of the obligation for which a guarantee is sought, for each remaining month of such calendar year and the year subsequent thereto.

(t) *Exhibit T:* If the proceeds of the obligation have been or will be used to acquire or to rehabilitate and improve equipment, a statement indicating number of units and in-service or out-of-service status and, if appropriate:

(1) For locomotives, service type, age, size, horsepower, name of builder, description of work, and unit cost of proposed work; and

(2) For freight cars or intermodal equipment information as to service type (box, gondola, flat, etc.), age, capacity, description of work, and unit costs of proposed work.

Such statement shall show the total cost of the project and distribution of such cost by primary accounts of the Commission's Uniform System of Accounts separated where applicable between material and labor, the ownership of all equipment which is the subject of the project, and the dates on which work is to be commenced or completed. Direct labor and material costs and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(u) *Exhibit U:* If the proceeds of the obligation have been or will be used to acquire or to rehabilitate and improve facilities, a statement showing, if applicable:

(1) Track class, as defined by the Federal Railroad Administration Track Safety Standards in part 213 of this chapter, at which each line being acquired or rehabilitated and improved has been generally operating and the reasons therefor; the track class and signal requirements necessary to provide safe, essential rail services; and the highest track class at which each such line will be desginated when the proposed project is completed;

(2) Date work is proposed to be commenced and completed; and

(3) Types and quantities of work items, unit costs, and total cost of project and distribution of such total cost by primary accounts of the Commission's Uniform System of Accounts, separated where applicable between material and labor. Direct labor and material costs and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(v) *Exhibit V:* List and description of the portion(s), if any, or rehabilitation or improvement being or to be performed by outside contractor(s).

NOTE.—The account forms referred to in the exhibits are those of the Commission's Uniform System of Accounts for Railroad Companies in use on February 15, 1976. However, the information required in any of the exhibits shall give effect to any modification of the Commission's Uniform System of Accounts for Railroad Companies in effect on the date of filing the loan application.

§ 260.11 Preapplication and application procedure.

(a) When a railroad or any other person has developed plans for a project for which it may wish to seek assistance under this part, that railroad or other person shall notify the Associate Administrator for Federal Assistance of the Federal Railroad Administration in writing at the address shown in paragraph (b) (3) of this section. The Associate Administrator will then schedule a meeting at which representaives of the railroad or other person will discuss with representatives of the Federal Railroad Administration the proposed project, information which must be submitted in the application, and the type of terms and conditions and financing documents that will be utilized in connection with financial assistance provided under section 511.

(b) The following procedure shall govern the execution and filing of the application:

(1) The original application shall bear the date of execution, be signed with ink by or on behalf of the applicant, and shall bear the corporate seal in the case of an applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the applicant shall also sign a certificate in form as follows:

---------- certifies that he
(Name of official)
is the ---------- of the
(Title of official)
----------; that he is author-
(Name of applicant)
ized on the part of the applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the applicant, in order to make this application and accept the requested guarantee or guarantee commitment has been given; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid ----------; that he has
(Name of applicant)
knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

(Name of official)

(Date)

(2) There shall be made a part of the original application the following certificate by the Chief Financial Officer or equivalent officer of the applicant:

---------- certifies that he
(Name of officer)
is ---------- of ----------
(Title of officer)
----------; that he has supervision over
(Name of railroad applicant)
the books of account and other financial records of the affected railroad and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting and other orders of the Interstate Commerce Commission; that such accounts are adequate to assure that proceeds from the financing being undertaken are used solely and specifically for the purposes authorized; that he has examined the financial statements and supporting schedules included in this application and to the best of his knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the applicant.

(Name of official)

(Date)

(3) The original application and supporting papers, and ten copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Federal Assistance of the Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Each copy shall bear the dates and signatures that appear in the original and

shall be complete in itself, but the signatures in the copies may be stamped or typed.

§ 260.13 General instructions.

(a) After a complete application and supporting exhibits have been filed with the Administrator, together with any other information the Administrator may request, the Administrator will:

(1) Place a notice of the filing of such application in the FEDERAL REGISTER and afford interested persons an opportunity to submit comments on such application; and

(2) Make a determination of the value of the facilities or equipment to be financed by the obligation, as required by section 511(c) of the Act.

(b) The Administrator will charge an applicant for expenses incurred in investigating an application, including appraisal of equipment or facilities to be secured and making the necessary determinations and findings. Such charges will be assessed and collected as expenses are incurred during the period in which the application is being reviewed.

(c) If the Administrator determines that an application is eligible for a guarantee or guarantee commitment, the following documents must be deposited with the Administrator before the transaction is closed:

(1) Certified copies of resolutions of the directors, and where necessary, of the executive committee of the applicant, and of the stockholders, and certified copies of the minutes of the meetings at which those resolutions were adopted, authorizing the obligation, in conformity with such terms as may be prescribed by the Administrator, and authorizing the designated officers to receive, and give a receipt for, the proceeds from the obligation and to enter into the agreement for guarantee of the obligation;

(2) Certified statement that applicant will comply with the maintenance of facilities standards set forth in subpart B of this part.

(3) Certified statement by the applicant that, if a guarantee or commitment to guarantee an obligation is approved, granted or extended, as long as any principal or interest is owing on such obligation:

(A) There will be no increase in discretionary dividend payments by the applicant over the average ratio which such payments bore to the earnings of the applicant for the applicable fiscal period during the five years preceding such proposed increase, without prior written approval of the Administrator;

(B) The applicant will not use assets or revenues (other than cash) related to or derived from railroad operations in non-railroad enterprises, without prior written approval from the Administrator; and

(C) The applicant will take all reasonable and practicable steps possible, in accordance with such guidelines as may be established by the Administrator in the guarantee agreement, to improve the equitable distribution and efficient and expeditious use of all equipment and facilities in order to improve rail service;

(4) Certified statement signed by the applicant and representatives of applicant's employees that the provisions of section 516 of the Act with respect to employee protection have been met; and

(5) Certified copy of the most recent detailed report by applicant's public accounting firm.

(d) If a guarantee or commitment to guarantee is extended, the Administrator will enter into an agreement with the applicant. That agreement shall contain the terms and conditions the Administrator deems appropriate to carry out the purposes of section 511 and to secure adequately the interests of the United States, including a maintenance schedule for the equipment or facilities financed by the guaranteed obligation. The agreement will require that the proceeds of the obligation be placed in and disbursed from an account separate from other funds of the recipient. The Administrator will also assess and collect from the obligor an annual premium charge which will not exceed one percent of the principal balance outstanding at the time the payment is due. Such charge will be payable when the guarantee is made and annually thereafter.

§ 260.15 Record, audit, and examination.

(a) Each recipient of financial assistance under this part, whether in the form of guarantee of obligations, contracts, subcontracts, or other arrangements, shall keep such records as the Administrator and the Comptroller General shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance was given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any accounts, books, documents, papers, reports, files and records of such receipts which in the opinion of the Administrator or the Comptroler General may be related or pertinent to the guarantee of the obligation, or to contracts, or other arrangements referred to in this part. Representatives of the Administrator or the Comptroller General shall be afforded full facilities for verifying the transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such property of such person or entity shall, to the extent practicable, remain in the possession and custody of such person or entity.

§ 260.17 Information requests.

If an applicant desires that any information submitted in an application or supplement thereto not be released by the Administrator upon request from a member of the public, the applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential as permitted by law.

§ 260.19 Waivers and modifications.

The Administrator may, upon good cause shown, waive or modify any requirement of this part not required by law or make any additional requirements he deems necessary.

Subpart B—Standards for Maintenance of Facilities by Recipients of Obligation Guarantees

§ 260.21 Applicability.

This subpart prescribes standards governing the maintenance of facilities, as defined in Subpart A of this part, that are being acquired or rehabilitated or improved with the proceeds of an obligation guaranteed, by the recipient of such guarantee for the period during which any portion of the principal or interest of such obligation remains unpaid.

§ 260.23 Definitions.

The terms defined in subpart A of this part shall have the same meaning that such terms are given in § 260.3 for the purposes of this subpart.

§ 260.25 Standards.

(a) When the proceeds of an obligation guaranteed by the Administrator are used to acquire or to rehabilitate and improve track, roadbed, and related structures, the guarantee recipient shall, as long as any portion of the principal or interest of such obligation remains unpaid, maintain such facilities in at least the highest track Class, as defined by Federal Railroad Administration Track Safety Standards in Part 213 of this chapter, as that Class in which the rehabilitated or improved track is designated upon completion of the project for which the obligation was guaranteed unless a waiver is granted in accordance with § 260.29 of this subpart.

(b) When the proceeds of an obligation guaranteed by the Administrator are used in facilities, including those mentioned in paragraph (a) of this section the recipient shall, during the period in which any portion of the principal or interest in such obligation remains unpaid, maintain such facilities in a manner consistent with sound engineering and maintenance practices and in a condition that will permit the level of use that existed upon completion of the acquisition or rehabilitation and improvement of such facilities unless a waiver is granted in accordance with § 260.2 of this subpart.

§ 260.27 Inspection.

(a) The facilities subject to the provisions of this subpart shall be inspected at such regular intervals as the Administrator deems necessary to assure com-

pliance with the standards set forth in § 260.25 of this subpart. Each recipient shall permit representatives of the Federal Railroad Administration to enter upon its property to inspect and examine such facilities at reasonable times and in a reasonable manner. Such representatives shall be permitted to use such testing devices as the Administrator deems necessary to insure that the maintenance standards imposed by this subpart are being followed.

(b) Each recipient shall submit to the Administrator annually financial records and other documents detailing the maintenance performed and the inspections conducted which demonstrate that the recipient has complied with the standards in § 260.25 of this subpart.

§ 260.29 Waiver.

Any recipient of a guarantee may petition the Administrator in writing for relief from any or all requirements imposed by this subpart. The Administrator may, for good cause shown, waive or modify any requirements of this part. Good cause may include, but is not limited to, insufficient capital resources of the recipient to comply with these maintenance standards or changes in the level granted in accordance with § 260.29 of this subpart.

§ 260.31 Impact on other laws.

Sandards issued under this subpart shall not be construed to relieve the recipient of any obligation to comply with any other Federal, State, or local law or regulations.

§ 260.33 Penalties.

If the Administrator finds that a guarantee recipient has violated the requirements of this subpart, such recipient will be subject to civil action for injunction to cease activities which violate this subpart and for any other appropriate civil or criminal relief, including termination, suspension, and punitive damages.

Dated: May 26, 1976.

ASAPH H. HALL,
Administrator, Federal Railroad Administration.

[FR Doc.76-15877 Filed 5-28-76;8:45 am]

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1976)

Title 21—Food and Drugs (Parts 600–1299) ---------- $2.75

Title 26—Internal Revenue (Parts 300–499) ---------- 3.60

[A Cumulative checklist of CFR issuances for 1976 appears in the first issue of the Federal Register each month under Title 1]

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